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Jumlah RM***************************400.00

DALAM MAHKAMAH TINGGI DI KUALA LUMPUR

DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR

(BAHAGIAN DAGANG)

GUAMAN SIVIL NO.:___________________

ANTARA

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P: 791221-01-6465) …PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) …DEFENDAN

WRIT SAMAN

"YANG ARIF KETUA HAKIM MALAYA, ATAS NAMA YANG DI-PERTUAN AGONG"

Kepada :-

ENE PETRO SERVICES SDN BHD
Suite 7-03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur

dan/atau

ENE PETRO SERVICES SDN BHD
B-3-2A, Block B,
Ostia Bangi Business Avenue,
Jalan Ostia 1, Seksyen 14,
Bandar Baru Bangi, 43650 Selangor

KAMI PERINTAHKAN KAMU bahawa dalam empat belas hari selepas penyampaian Writ ini kepada kamu, termasuklah hari penyampaian itu, kamu hendaklah menyebabkan suatu kehadiran dimasukkan untuk diri kamu dalam suatu

kuasa atas Guaman Plaintif yang dinamakan di atas dan AMBIL PERHATIAN, bahawa dalam keingkaran kamu berbuat demikian Plaintif boleh meneruskan untuk mendapatkan penghakiman dan pelaksanaan.

DISAKSIKAN oleh Siti Aisyah Binti Ahmad Timbalan Pendaftar ~~Pendaftar~~ Mahkamah Tinggi Malaya di Kuala Lumpur pada 18 haribulan Jun 2021

Rohamat E Ling
.....
Peguamcara Plaintif

METERAI MAHKAMAH TINGGI MALAYA
KUALA LUMPUR

SITI AISYAH BINTI AHMAD
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur
~~Pendaftar~~,
Mahkamah Tinggi
Kuala Lumpur

Memorandum yang hendak Diturunkan pada Writ

Writ ini tidak boleh disampaikan lebih dari enam bulan kalendar selepas tarikh di atas melainkan jika diperbaharui melalui perintah Mahkamah.

Defendan (atau Defendan-defendan) boleh hadir bersama dengan mencatatkan kehadiran (atau kehadiran-kehadiran) sama ada sendiri atau melalui peguam di Pejabat Pendaftaran Mahkamah Tinggi di Kuala Lumpur.

Seorang Defendan yang hadir sendiri boleh, jika dikehendakinya, memasukkan kehadirannya melalui pos, dan borang-borang yang tertentu bolehlah didapati dengan menghantar Kiriman Pos berharga RM16.00 beserta sampul surat beralamat sendiri kepada Pendaftar, Mahkamah Tinggi di Kuala Lumpur.

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Pengendorsan hendaklah dibuat pada Writ sebelum pengeluaran

Pengendorsan tuntutan

Tuntutan Plaintif menuntut terhadap Defendan seperti berikut:-

i) Bahawa seorang juruaudit bebas dilantik untuk membuat suatu pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dari Jun 2017 sehingga Oktober 2020 untuk mengetahui keuntungan bersih berdasarkan pembayaran yang sudah terima dan pembayaran yang belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff, SPV Ball Valve* dan *GWC Italia*;

ii) Bahawa juruaudit bebas tersebut menyediakan suatu akaun penyata selepas pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dibuat dan segala kos pelantikan juruaudit bebas tersebut ditanggung oleh syarikat Defendan;

iii) Bahawa syarikat Defendan membayar kepada Plaintif jumlah yang dikira oleh juruaudit bebas tersebut;

iv) Secara alternatif, Defendan membayar kepada Plaintif sejumlah RM3,511,000.00;

v) Faedah;

vi) Kos; dan

vii) Apa-apa relif lain dan/atau selanjut sebagaimana dianggap adil dan suaimanfaat oleh Mahkamah Yang Mulia ini.

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Dan RM (atau sekian jumlah sebagaimana yang dibenarkan setelah ditetapkan) untuk kos, dan juga jika Plaintif memperolehi perintah untuk penyampaian ganti, jumlah wang selanjutnya sebanyak RM (atau sekian jumlah sebagaimana yang dibenarkan setelah ditetapkan). Sekiranya amaun yang dituntut dan kos dibayar kepada Plaintif atau peguamnya dalam tempoh 8 hari selepas penyampaian writ ini (termasuk hari penyampaian), prosiding seterusnya akan ditangguhkan, tetapi sekiranya ternyata daripada pengendorsan pada writ itu bahawa Plaintif bermastautin di luar wilayah terjadual, sebagaimana yang ditakrifkan oleh Akta Kawalan Pertukaran Wang 1953, atau bertindak mengikut perintah atau bagi pihak seorang yang bermastautin sedemikian, prosiding akan hanya ditangguhkan sekiranya amaun yang dituntut dan kos dibayar ke dalam Mahkamah dalam masa yang tersebut itu dan notis pembayaran tersebut diberikan kepada Plaintif atau peguamnya.

(Sekiranya Plaintif membawa guaman itu atau Defendan dibawa guaman, atas wakil, hal ini mestilah dinyatakan dalam pengendorsan tuntutan itu)

Pengindorsan tentang peguamcara dan alamat

Writ Saman ini telah difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj: LIT/2020 1114_ARAR

Pengendorsan tentang penyampaian

Writ ini telah disampaikan oleh dengan cara penyampaian kediri (atau sebagaimana yang berkenaan) (nyatakan cara penyampaian atau mengikut terma-terma suatu perintah untuk penyampaian ganti) kepada Defendan (yang saya kenali) (atau yang telah ditunjukkan kepada saya oleh)
(atau yang telah mengaku kepada saya bahawa dia ialah)
di (tempat) pada hari pada haribulan 2021.

Diendorskan pada haribulan 2021.

.....
Penghantar Saman

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DALAM MAHKAMAH TINGGI DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
(BAHAGIAN DAGANG)
GUAMAN SIVIL NO.:_____

ANTARA

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P: 791221-01-6465) …PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) …DEFENDAN

PERNYATAAN TUNTUTAN

1. Plaintif adalah seorang warganegara Malaysia yang mempunyai alamat di No. 2, Jalan Panglima Awang 35/126D, Alam Impian, 40470 Shah Alam, Selangor.

2. Defendan adalah sebuah syarikat sendirian berhad yang dipertubuhkan di bawah undang-undang Malaysia dan mempunyai alamat urusniaga di Suite 7-03A, North Block, The Ampwalk, 218 Jalan Ampang, 50450 Kuala Lumpur dan mempunyai alamat berdaftar di B-3-2A, Block B, Ostia Bangi Business Avenue, Jalan Ostia 1, Seksyen 14, Bandar Baru Bangi, 43650 Selangor.

3. Defendan merupakan sebuah syarikat yang menjalankan urusniaga dalam industri gas dan minyak.

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4. Lebih kurang pada Februari 2017, Plaintif telah dilantik sebagai Pengurus Pembangunan Perniagaan ("*Business Development Manager*") di syarikat Defendan dan lebih kurang pada masa yang sama, Plaintif merupakan pengarah dan pemegang saham di sebuah syarikat yang dikenali sebagai Ene Tech Venture Sdn Bhd ("**Ene Tech**") dimana Encik Muhammad Hafiz bin Ahmad ("**Hafiz**") juga merupakan salah seorang pemegang saham dan pengarah di syarikat Ene Tech.

5. Sebenarnya, susunan asal antara Plaintif dan Hafiz ialah Plaintif memperolehi perniagaan/jualan melalui syarikat Ene Tech tetapi pembekal-pembekal enggan berurusniaga dengan syarikat Ene Tech kerana ia adalah sebuah syarikat baru tanpa akaun yang diaudit.

6. Sehubungan daripada itu, Hafiz yang mencadangkan Plaintif bekerja di syarikat Defendan sebagai Pengurus Pembangunan Perniagaan untuk terus memperolehi perniagaan/jualan melalui syarikat Defendan yang sudah mempunyai akaun-akaun yang diaudit selama beberapa tahun.

7. Walau bagaimanapun, pada bulan September 2020, Plaintif telah berbincang dengan pengurusan syarikat Defendan terutamanya, dengan Hafiz iaitu pemegang besar syarikat Defendan, bahawa Plaintif berhasrat meletakkan jawatannya sebagai Pengurus Pembangunan Perniagaan di syarikat Defendan dan juga meletakkan jawatan sebagai pengarah di syarikat Ene Tech dan memindahmilik sahamnya kepada Encik Hafiz.

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8. Syarikat Defendan juga telah akui terima notis perletakkan jawatan Plaintif yang diserahkan pada 28.9.2020 dan hari terakhir Plaintif adalah pada 30.10.2020.

9. Sehubungan daripada perletakkan jawatan Plaintif, kedua-dua pihak Plaintif dan Defendan telah bersetuju antara lainnya:

   i) Syarikat Defendan bersetuju membayar 50% daripada keuntungan bersih berdasarkan kepada pembayaran yang diterima dan 40% daripada keuntungan bersih berdasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff* dan *GWC Italia* semasa Plaintif bekerja di syarikat Defendan di mana jumlah tersebut akan dikira dan dinyatakan dalam suatu akaun penyata yang disediakan oleh juruaudit pihak ketiga yang dilantik oleh Plaintif dan Defendan ("**Jumlah Penyelesaian**").

   ii) Akaun penyata tersebut adalah akhir dan muktamad.

   iii) Syarikat Defendan akan membayar RM100,000.00 kepada Plaintif dan jumlah ini akan dianggap sebagai bahagian pembayaran kepada Jumlah Penyelesaian.

   iv) Suatu Perjanjian Memorandum ("*Memorandum of Agreement*") akan disediakan oleh syarikat Defendan dan akan dimasuki antara Plaintif dan Defendan berkenaan dengan obligasi kerahsiaan dan Plaintif tidak berhak

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menuntut terhadap syarikat Defendan melainkan tuntutan Jumlah Penyelesaian.

v) Baki Jumlah Penyelesaian (iaitu kurang RM100,000.00 yang dinyatakan di atas) hanya akan dibayar kepada Plaintif selepas Perjanjian Memorandum telah dimasuki antara Plaintif dan Defendan dan akaun penyata telah disediakan oleh juruakaun syarikat Defendan.

Kesemua terma-terma penyelesaian antara Plaintif dan Defendan adalah jelas ternyata di surat syarikat Defendan bertarikh 26.10.2020.

10. Tambahan lagi, syarikat Defendan juga bersetuju membayar 50% daripada keuntungan bersih berdasarkan kepada pembayaran yang diterima dan 40% daripada keuntungan bersih berdasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan *SPV Ball Valve.*

11. Lebih kurang pada 28.10.2020, Plaintif telah menerima sekeping cek berjumlah RM100,000.00 daripada syarikat Defendan.

12. Plaintif telah meminta syarikat Defendan mengenai Perjanjian Memorandum dan penyediaan akaun penyata tetapi syarikat Defendan enggan/cuai/gagal menyediakan Perjanjian Memorandum dan akaun penyata sepertimana yang ternyata di dalam terma-terma perjanjian penyelesaian Plaintif dan Defendan.

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13. Selanjutnya, Plaintif telah melantik peguamcaranya untuk meminta Perjanjian Memorandum dan akaun penyata tetapi syarikat Defendan masih enggan/cuai/gagal memberi apa-apa dan ini menunjukkan keengganan syarikat Defendan memenuhi obligasi untuk membayar Jumlah Penyelesaian tersebut kepada Plaintif.

14. Plaintif juga cuba menawarkan penyelesaian mesra ("*amicable settlement*") tetapi syarikat Defendan enggan berunding malah mendakwa ketidakwujudan perjanjian penyelesaian serta obligasi membayar Jumlah Penyelesaian tersebut kepada Plaintif.

15. Memandangkan syarikat Defendan enggan berunding untuk melantik seorang juruaudit bebas, maka Plaintif terpaksa memohon Mahkamah Yang Mulia ini untuk melantik seorang juruaudit bebas untuk memenuhi terma-terma perjanjian penyelesaian disini.

16. Walaubagaimanapun. Plaintif telah secara rela hati membuat kiraan sendiri dan sejumlah RM3,511,000.00 (kurang RM100,000.00) adalah jumlah yang perlu dibayar oleh syarikat Defendan kepada Plaintif sebagai Jumlah Penyelesaian tersebut.

17. Oleh demikian, Plaintif menuntut terhadap Defendan:

    i) Bahawa seorang juruaudit bebas dilantik untuk membuat suatu pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dari Jun 2017 sehingga Oktober 2020 untuk mengetahui keuntungan bersih berdasarkan pembayaran yang sudah terima dan pembayaran yang belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff, SPV Ball Valve* dan *GWC Italia*;

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ii) Bahawa juruaudit bebas tersebut menyediakan suatu akaun penyata selepas pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dibuat dan segala kos pelantikan juruaudit bebas tersebut ditanggung oleh syarikat Defendan;

iii) Bahawa syarikat Defendan membayar kepada Plaintif jumlah yang dikira oleh juruaudit bebas tersebut;

iv) Secara alternatif, Defendan membayar kepada Plaintif sejumlah RM3,511,000.00;

v) Faedah;

vi) Kos; dan

vii) Apa-apa relif lain dan/atau selanjut sebagaimana dianggap adil dan suaimanfaat oleh Mahkamah Yang Mulia ini.

Bertarikh 18 haribulan Jun 2021

Rohamat & Ling
.....
Peguamcara Plaintif

Pernyataan Tuntutan ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj LIT/2020 1114_ARAR

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DALAM MAHKAMAH TINGGI DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
(BAHAGIAN DAGANG)
GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) …PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) …DEFENDAN

RINGKASAN KES PLAINTIF

1. Pada tahun 2017, Plaintif dan Muhammad Hafiz bin Ahmad ("**Hafiz**") telah setuju bekerjasama untuk memperolehi perniagaan/jualan dan Ene Tech Venture Sdn Bhd ("**Ene Tech**") telah ditubuhkan.

2. Setelah Ene Tech ditubuhkan, Plaintif dapati pembekal-pembekal enggan berurusniaga dengan Ene Tech kerana ia adalah sebuah syarikat baru tanpa akaun yang diaudit dan Hafiz mencadangkan Plaintif bekerja di syarikat Defendan untuk terus memperolehi perniagaan/jualan melalui syarikat Defendan yang sudah mempunyai akaun-akaun yang diaudit selama beberapa tahun.

3. Pada September 2020, Plaintif telah memaklumkan hasrat meletak jawatan dan syarikat Defendan juga menerima perletakkan jawatan Plaintif. Pihak-pihak telah mencapai suatu persetujuan dan suatu Perjanjian Penyelesaian bertarikh 26.10.2020 telah dimasuki antara Plaintif dan Defendan.

   Pihak-pihak juga bersetuju syarikat Defendan akan membayar kepada Plaintif 50% daripada keuntungan bersih berdasarkan kepada pembayaran yang diterima dan 40% daripada keuntungan bersih berdasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan *SPV Ball Valve.*

   ("selepas ini dikenali sebagai "**Perjanjian Penyelesaian tersebut**")

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4. Pada 28.10.2020, Plaintif telah menerima sekeping cek berjumlah RM100,000.00 daripada syarikat Defendan.

5. Plaintif telah meminta syarikat Defendan memenuhi obligasi-obligasi mereka di dalam Perjanjian Penyelesaian tersebut tetapi syarikat Defendan enggan/cuai/gagal memenuhi obligasi kontrak mereka.

6. Syarikat Defendan telah mengabaikan dan telah enggan dan masih terus mengabaikan dan enggan mengambil sebarang langkah untuk menyempurnakan Perjanjian Penyelesaian tersebut.

7. Pada setiap masa, Plaintif bersedia, berupaya dan ingin menyempurnakan Perjanjian Penyelesaian tersebut.

8. Akibat daripada kemungkiran syarikat Defendan, Plaintif telah mengalami kehilangan dan kerugian jumlah penyelesaian yang patut diterima daripada syarikat Defendan menurut Perjanjian Penyelesaian tersebut.

9. Plaintif telah membuat kiraan dan sejumlah RM3,511,000.00 (kurang RM100,000.00) adalah jumlah yang perlu dibayar oleh syarikat Defendan kepada Plaintif sebagai jumlah penyelesaian di bawah Perjanjian Penyelesaian tersebut.

10. Oleh demikian, Plaintif menuntut antara lainnya, pelaksanaan spesifik Perjanjian Penyelesaian tersebut.

Bertarikh 31 haribulan Mei 2022

Rohamat & Ling
.....
Peguamcara Plaintif

Ringkasan Kes Plaintif ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj LIT/2020 1114_ARAR

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DALAM MAHKAMAH TINGGI DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
(BAHAGIAN DAGANG)
GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) …PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) …DEFENDAN

KRONOLOGI KES BERSAMA

Tarikh	Peristiwa
31.12.2014	Ene Petro Services Sdn Bhd telah ditubuhkan dan Muhammad Hafiz bin Ahmad adalah pemegang saham terbesar syarikat tersebut dan juga merupakan pengarah syarikat tersebut.
29.12.2016	Ene Tech Ventures Sdn Bhd telah ditubuhkan.
10.07.2017	Defendant telah melantiik Plaintif sebagai *Business Development Manager*.
22.10.2020	Plaintif telah meletakkan jawatannya sebagai *Business Development Manager*.
26.10.2020	Defendan telah menerima peletakkan jawatan Plaintif dan suatu perjanjian penyelesaian telah dimasuki antara Plaintif dan Defendan melalui Surat Defendan bertarikh 26.10.2020.

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28.10.2020	Plaintif telah menerima sekeping cek berjumlah RM100,000.00 daripada Defendan.
30.10.2020	Hari terakhir Plaintif di syarikat Defendant.
11.12.2020	Mohd Khairul Amini Ramli telah menghantar suatu penyata akaun penyelesaian yang dicadangkan kepada Plaintif dan Defendant melalui emel bertarikh 11.12.2020.
December 2020 – February 2021	Perundingan penyelesaian antara Plaintif dan Defendan tetapi gagal.
23.4.2021	Plaintif melalui peguamcaranya mencadangkan pelantikan juruaudit bebas dan menyerahkan perjanjian memorandum kepada Peguamcara Defendan untuk tandatangan dan tindakan selanjut Defendan.
18.6.2021	Plaintif telah memfailkan guaman ini terhadap Defendan di sini.
16.8.2021	Defendan telah memfailkan tuntutan balas terhadap Plaintifi di sini.

Bertarikh 15 haribulan Julai , 2022

Diluluskan oleh:

Rohamat & Ling

.....

Peguamcara Plaintif

.....

Peguamcara Defendan

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

Kronologi Bersama ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj LIT/2020 1114_ARAR

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English Translation

IN THE HIGH COURT OF KUALA LUMPUR
IN THE FEDERAL TERRITORY, KUALA LUMPUR
(COMMERCIAL DIVISION)
CIVIL SUIT NO.: WA-22NCC-281-06/2021

BETWEEN

AHMAD RIDZUAN AHMAD RUSLI
(NRIC NO.: 791221-01-6465) …PLAINTIFF

AND

ENE PETRO SERVICES SDN BHD
(COMPANY NO.: 201401048919 (1125108-T)) …DEFENDANT

COMMON CHRONOLOGY OF EVENTS

Date	Events
31.12.2014	Ene Petro Services Sdn Bhd was incorporated and Muhammad Hafiz bin Ahmad is the majority shareholder of the company and also the director of the company.
29.12.2016	Ene Tech Ventures Sdn Bhd was incorporated.
10.07.2017	The Defendant appointed the Plaintiff as Business Development Manager.
22.10.2020	The Plaintiff tendered his resignation as Business Development Manager.

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26.10.2020	The Defendant accepted the Plaintiff's resignation and a settlement agreement was entered between the Plaintiff and the Defendant vide the Defendant's Letter dated 26.10.2020.
28.10.2020	The Plaintiff received a cheque of RM100,000.00 from the Defendant.
30.10.2020	The Plaintiff's last day in the Defendant company.
11.12.2020	Mohd Khairul Amini Ramli sent a proposed settlement statement of account to the Plaintiff and the Defendant via email dated 11.12.2020.
December 2020 – February 2021	A series of negotiations on settlement between the Plaintiff and the Defendant but failed.
23.4.2021	The Plaintiff via his solicitors proposed the appointment of independent auditors and forwarded the memorandum of agreement to the Defendant's Solicitors for the Defendant's execution and further action.
18.6.2021	The Plaintiff filed the suit against the Defendant herein.
16.8.2021	The Defendant filed a counterclaim against the Plaintiff herein.

Dated 15th day of July , 2022

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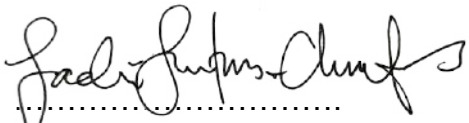
**Note : Serial number will be used to verify the originality of this document via eFILING portal

Approved by:

.....
Plaintiff's Solicitors



.....
Defendant's Solicitors

This Common Chronology of Event is filed by Messrs Rohamat & Ling, solicitors for the Plaintiff whose correspondence address is 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Fax: 03-7932 5151
No. Ref: LIT/2020 1114_ARAR

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

Encl No. 11

H0272101 WA1321423988 28/10/2021 09:06:10
WA-22NCC-281-06/2021
TSS053.....16.00 x 1
Jumlah RM.....16.00

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR

(BAHAGIAN DAGANG)

DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI

(NO. K/P : 791221-01-6465) …PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.

(NO. SYARIKAT: 1125108-T) …DEFENDAN

SENARAI DOKUMEN DEFENDAN

BIL.	DOKUMEN	TARIKH
1.	Surat Lantikan	10.07.2017
2.	Surat Pengesahan	17.07.2017
3.	ENE Employee Handbook	
4.	Surat Penerimaan Peletakan Jawatan	26.10.2020
5.	Tangkap layar Whatsapp dalam Group Whatsapp FARRIS USA, ASIA & ENE	02.11.2020
6.	Tangkap layar Whatsapp antara Plaintif dan Syawal Ghazali	07.11.2021

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

7.	Tangkap layar Whatsapp antara Plaintif dan Mohd Khairul Amini Ramli	31.10.2020
8.	Tangkap layar Whatsapp antara Plaintif dan Mohd Khairul Amini Ramli	09.11.2020
9.	Tangkap layar Whatsapp antara Plaintif dan Nurul Hanan	12.11.2020
10.	Tangkap layar Whatsapp dalam Group Whatsapp ENE FARRIS TOP MANAGEMENT	29.10.2020
11.	Tangkap layar Whatsapp dalam Group Whatsapp ENE FARRIS TOP MANAGEMENT	2.11.2020
12.	Tangkap layar Whatsapp dalam Group Whatsapp ENE FARRIS TOP MANAGEMENT	9.11.2020
13.	Carian SSM atas PROSKY Services Sdn. Bhd.	27.10.2021
14.	Carian SSM atas Pertama Gemilang Sdn. Bhd.	27.10.2021
15.	Tangkap layar status Whatsapp Plaintif	26.09.2020
16.	Tangkap layar status Whatsapp Plaintif	30.09.2020
17.	Tangkap layar Whatsapp antara Plaintif dan Wan Mohd Khairul Syaman	17.09.2020

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18.	Tangkap layar Whatsapp antara Plaintif dan Mohd Khairul Amini Ramli	30.09.2020
19.	Tangkap layar Whatsapp antara Plaintif dan Mohd Khairul Amini Ramli	31.10.2020
20.	Emel Daripada Mohd Khairul Amini Ramli ke Plaintif (Repot Audit untuk pengiraan)	11.12.2020
21.	Emel daripada Plaintif ke Mohd Khairul Amini Ramli	11.12.2020
22.	Surat daripada pihak peguam Defendan ke Plantif	19.11.2020
23.	Surat daripada pihak peguam Defendan ke peguam Plantif	30.12.2020
24.	Surat daripada pihak peguam Defendan ke peguam Plantif	8.01.2021
25.	Surat daripada pihak peguam Defendan ke peguam Plantif	26.01.2021
26.	Surat daripada pihak peguam Defendan ke peguam Plantif	8.02.2021
27.	Surat daripada pihak peguam Defendan ke peguam Plantif	19.05.2021
28.	Salinan cek bernilai RM100,000.00 diisukan oleh Defendan ke Plantif	28.10.2020

Bertarikh pada 28 haribulan Oktober, 2021.

.....

Peguamcara bagi Defendan

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SENARAI DOKUMEN DEFENDAN ini difailkan oleh difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03-4131.1557
Faks : 03-4141.8824
Email : law@fadhlisutris.com
[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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Encl No. 36

H0272101 WA1322300214 18/07/2022 16:33:43
WA-22NCC-281-06/2021
Kumpulan Fail ..... 16.00 x 1
Jumlah Fail **********16.00

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) **...PLAINTIF**

DAN

ENO PETRO SERVICES SDN BHD
(NO.SYARIKAT 201401048919) (1125108-T) **...DEFENDAN**

****

IKATAN DOKUMEN BERSAMA

****

Difailkan oleh:
Tetuan Rohamat & Ling
1009, Tingkat 10, Menara PJ,
Pusat Perdagangan Amcorp,
18, Jalan Persiaran Barat,
46050 Petaling Jaya, Selangor
Tel No. 03-7932 5050
Fax No. 03-7932 5151
Ruj No.: LIT/2020 1114_ARAR

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INDEKS

BAHAGIAN A

No.	Dokumen	Muka Surat
1	Surat Penerimaan Peletakan Jawatan bertarikh 26.10.2020	1-3
2	Salinan cek bernilai RM100,000.00 dibayarkan kepada Plaintif	4
4	Carian SSM – Ene Petro Services Sdn Bhd	5-12
5	Carian SSM – Ene Tech Ventures Sdn Bhd	13-18
6	Carian SSM – Prosky Services Sdn Bhd	19-27
7	Carian SSM – Pertama Gemilang Sdn Bhd	28-39

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INDEKS

BAHAGIAN B

No.	Dokumen	Muka Surat
8	Surat Pelantikan bertarikh 10.7.2017	40-43
9	Surat Pengesahan bertarikh 17.7.2017	44
10	ENE Employee Handbook	45-84
11	Surat Penerimaan Peletakan Jawatan bertarikh 26.10.2020	85-94
12	Emel bertarikh 10.11.2020 daripada Mohd Khairul Amini Ramli bersama lampiran	95-97
13	Emel (bertajuk "Profit and Loss Statements for the year 2017 – 2020") bertarikh 12.11.2020 daripada Mohd Khairul Amini Ramli bersama lampiran	98-123
14	Emel (bertajuk "Profit and Loss Statements for the year 2017 – 2020") bertarikh 14.10.2021 daripada Hafiz Ahmad	124-132
15	Surat peguamcara Defendan bertarikh 19.11.2020 kepada Plaintif	133-135
16	Surat peguamcara Plaintif bertarikh 21.12.2020 kepada peguamcara Defendan	136
17	Surat peguamcara Defendan bertarikh 30.12.2020 kepada peguamcara Plaintif	137-140

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18	Surat peguamcara Defendan bertarikh 8.1.2021 kepada peguamcara Plaintif	141
19	Surat peguamcara Plaintif bertarikh 12.1.2021 kepada peguamcara Defendan	142
20	Surat peguamcara Defendan bertarikh 26.1.2021 kepada peguamcara Plaintif	143
21	Surat peguamcara Plaintif bertarikh 3.2.2021 kepada peguamcara Defendan	144
22	Surat peguamcara Defendan bertarikh 8.2.2021 kepada peguamcara Plaintif	145-148
23	Surat peguamcara Plaintif bertarikh 23.4.2021 kepada peguamcara Defendan bersama lampiran	149-152
24	Surat peguamcara Defendan bertarikh 20.5.2021 kepada peguamcara Plaintif	153
25	Tangkap layar Whatsapp dalam Group Whatsapp FARRIS USA, ASIA & ENE bertarikh 2.11.2020	154
26	Tangkap layar Whatsapp dalam Group Whatsapp ENE FARRIS TOP MANAGEMENT bertarikh 29.10.2020	155
27	Tangkap layar Whatsapp dalam Group Whatsapp ENE FARRIS TOP MANAGEMENT bertarikh 9.11.2020	156
28	Tangkap layar Whatsapp antara Plaintiff dan Syawal Ghazali bertarikh 7.11.2021	157-159
29	Tangkap layar Whatsapp antara Plaintiff dan Mohd Khairul Amini Ramli bertarikh 9.11.2020	160

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30	Tangkap layar Whatsapp antara Plaintiff dan Mohd Khairul Amini Ramli bertarikh 30.9.2020	161
31	Tangkap layar Whatsapp antara Plaintiff dan Mohd Khairul Amini Ramli bertarikh 31.10.2020	162-164
32	Tangkap layar Whatsapp antara Plaintiff dan Nurul Hanan bertarikh 12.11.2020	165-166
33	Tangkap layar Whatsapp antara Plaintiff dan Wan Mohd Khairul Syaman bertarikh 17.9.2020	167
34	Tangkap layar status Whatsapp Plaintiff bertarikh 26.9.2020	168
35	Tangkap layar status Whatsapp Plaintiff bertarikh 30.9.2020	169
36	Ringkasan Aliran Tunai yang disediakan oleh Plaintif	170-174
37	"Order Tracking 2020 (Farris)" yang disediakan oleh Plaintif	175-197

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BAHAGIAN

A

S/N F5jq9ViFEucz9jZ2qp1QQ
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ENE PETRO SERVICES SDN BHD *(1125108-T)*
Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

COPY

26th October 2020

PRIVATE AND CONFIDENTIAL

To: En. Ahmad Ridzuan Ahmad Rusli

Dear Sir

Re: Acceptance of Resignation Notice

It is with great regret that we, ENE PETRO SERVICES SDN BHD ("Company") hereby formally acknowledge receipt of your verbal resignation notice served on us on 28th September 2020 during the management meeting and with immediate effect we have accepted your resignation notice and your final day will be on 30th October 2020 **("Final Day")**.

We are glad to inform you that during the notice period, the Company is granting you "Gardening Leave" in lieu of such notice in which you are no longer required to report to work starting from 5th October 2020.

During the Gardening Leave, you will still be paid the following:

i) your basic salary up to the Final Day; and
ii) any expense & project claim submitted and incurred until September 2020.

As such, both parties voluntarily agree to the following terms:

1. as a gesture of appreciation in recognition of your work, the Company agrees to award 50% of Net Profit based on payment received ("Full Payment") *and 40% of Net Profit based on payment not received ("pending Payment")* generated from Curtiss Wright, Malakoff and *GWC Italia* Businesses during your employment the amount of which shall be calculated and stated in an account statement prepared *by third party auditor to be agreed by both parties* and such statement shall be final and conclusive;
2. as a token of good faith, the Company will pay an advance payment of RM100,000.00 ("Advance Payment") to you and such payment shall be deducted from the Full Payment and the balance thereof shall be referred to as "Balance Payment";
3. a memorandum of agreement ("Memorandum of Agreement") will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company, which shall be executed by the Company and you in relation to confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;
4. you shall not, at any time disclose to any person any information as to the trade secrets, technical processes and data, practices, business dealing or affairs of the company or any of its clients or as to any other matter which may come to his or her knowledge by reason of your employment;
5. you shall not remove from the Company's premises any paper, notes, letters, telexes, calculations, drawings and any other data/documents whatsoever belonging to or in the possession of the Company and, the date of this writing, you shall return to the Company all such data/documents to the Company;
6. you shall not engage in any detrimental conduct that is contrary or harmful to the interest of the Company or any of its subsidiaries, including, but not limited to, (i) its properties, (ii) disclosing or misusing any confidential information or material concerning the Company or any of its subsidiaries, (iii) participating in a hostile takeover attempt of the Company, (iv) any

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ENE PETRO SERVICES SDN BHD *(1125108-T)*
Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

kind of act , directly or indirectly, damaging to the Company's reputation and image; and (v) engaging in an act of fraud or intentional misconduct; and

7. Your failure to comply with the conditions stated in this Letter shall relieve the Company from any obligation to fulfill the payment mention in this Letter and in such event any payment has been made, you shall forthwith refund all the monies received and the Company may proceed with any legal recourse available to the Company under the law to protect the its interest and to claim any losses pertaining hereto.

In consideration of the Gardening Leave, you have agreed that:

1) you have no rights, interests, titles and benefits whatsoever in the Company and its subsidiaries save for the Advance Payment and the Balance Payment;

2) you have no rights whatsoever to claim, inter alia, any profits, refund, damages and/or losses whatsoever against the Company, its subsidiaries and/or its agent save for the Advance Payment and the Balance Payment; and

3) you have accepted the Advance Payment as full and final settlement save for the Advance Payment and the Balance Payment.

For the avoidance of doubt, the Balance Payment will be released to you once the Memorandum of Agreement has been executed by both parties and the statement of account has been prepared by the accountant of the Company.

We reserve the right to make announcements or statements to any of the employees, customers, clients, professional contacts of the Company, or any Group Company or other third parties, concerning you and your departure from the Company, as we think fit.

You are requested to return the access card and laptop before you leave today.

We thank you for all the contributions you have made to the Company.

Yours Sincerely,

ENE PETRO SERVICES SDN BHD

ENE Petro Services Sdn. Bhd. 1125108-T

.....
MUHAMMAD HAFIZ AHMAD
Managing Director

S/N F5jq9ViFEucz9jZ2qp1QQ
**Note : Serial number will be used to verify the originality of this document via eFILING portal

ENE PETRO SERVICES SDN BHD *(1125108-T)*
Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

I, Ahmad Ridzuan Ahmad Rusli (NRIC No. 791221-01-6465) hereby expressly, irrevocably and unconditionally agree with the terms and conditions embodied in this Letter.

.....
Ahmad Ridzuan Ahmad Rusli
NRIC: 791221-01-6465
Position: Business Development Manager

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Maybank Islamic
MENARA PERKESO , WP KUALA LUMPUR

54-14349

STAMP DUTY PAID

A/C PAYEE ONLY

Maybank Islamic Berhad (787435-M)

Tarikh 日期 Date 28 10 2020 (D D M M Y Y)

BAYAR/ PAY 祈交 Ahmad Ridzuan Ahmad Rusli

ATAU PEMBAWA/ 或攜票人取 OR BEARER

RINGGIT MALAYSIA/ 馬幣 Seratus ribu sahaja

RM 100,000.00

b.p. ENE PETRO SERVICES SDN BHD (1125108T

CIMB 564427515442

JANGAN TANDATANGAN DI BAWAH GARISAN INI 请勿在此线后下签名 NO SIGNATURE BELOW THIS LINE

CHEQUE NO. A/C NO.

⑆03 ⑈363958⑈ 54⑈143491⑆ 005051544 2⑈ 24

ENE Petro Services Sdn Bhd 1125108-T

Received dated 28/10/2020 via hand collection.

AHMAD RIDZUAN B. AHMAD RUSLI

S/N F5jq9ViFEucz9jZ2qp1QQ
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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Although all efforts have been carried out to ensure that the information provided is accurate and up to date, the Registrar of Companies will not be liable for any losses arising from any inaccurate or omitted information.

CORPORATE INFORMATION

Name	:ENE PETRO SERVICES SDN. BHD.
Last Old Name	:Nil
Date Of Change	:Nil
Registration No.	**:201401048919(1125108-T)**
Incorporation Date	:31-12-2014
Type	:LIMITED BY SHARES PRIVATE LIMITED
Status	:EXISTING
Registered Address	:B-3-2A, BLOCK B OSTIA BANGI BUSINESS AVENUE JALAN OSTIA 1, SEKSYEN 14 BANDAR BARU BANGI SELANGOR
Postcode	:43650
Origin	:MALAYSIA
Business Address	:SUITE 7-03A, NORTH BLOCK, THE AMPWALK, 218 JALAN AMPANG KUALA LUMPUR WILAYAH PERSEKUTUAN
Postcode	:50450
Nature Of Business	:OIL AND GAS; GENERAL TRADING; PRODUCTION HOUSE

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF SHARE CAPITAL

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : **201401048919(1125108-T)**

TOTAL
ISSUED
(RM)
500,000.0000

	CASH	OTHERWISE THAN CASH
ORDINARY	500,000	0
PREFERENCE	0	0
OTHERS	0	0

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

DIRECTORS/OFFICERS

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : 201401048919(1125108-T)

Name/Address	IC/Passport	Designation	Date Of Appointment
MUHAMMAD HAFIZ BIN AHMAD 18, JALAN PANDAN 5/3 TAMAN PANDAN JAYA 55100 KUALA LUMPUR WILAYAH PERSEKUTUAN	790414-14-5349	DIRECTOR	31-12-2014
SUMARNO BIN MOHD DEGOL LOT 6670, LORONG 2A TAMAN MATANG JAYA 93050 KUCHING SARAWAK	781225-13-5817	DIRECTOR	31-12-2014
MOHD KHAIRUL AMINI BIN A.RAMLI NO. 4, LORONG 8 TAMAN BAGAN PASIR 36200 SELEKOH PERAK	720814-08-5521	SECRETARY	31-12-2014

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SHAREHOLDERS/MEMBERS

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : 201401048919(1125108-T)

IC/Passport/ Registration No	Name/Company Name	Total of share
781225-13-5817	SUMARNO BIN MOHD DEGOL	75,000.00
790414-14-5349	MUHAMMAD HAFIZ BIN AHMAD	425,000.00

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : 201401048919(1125108-T)

1.	Charge Number	: 001
	Total Of Charge	: 4,713,372.05
	Date Of Creation	: 23-09-2016
	Name Of Chargee	: PLC CREDIT & FACTORING SDN BHD
	Charge Status	: FULLY SATISFIED
2.	Charge Number	: 002
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 26-04-2017
	Name Of Chargee	: MALAYAN BANKING BERHAD
	Charge Status	: UNSATISFIED
3.	Charge Number	: 003
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 26-04-2017
	Name Of Chargee	: MALAYAN BANKING BERHAD
	Charge Status	: UNSATISFIED
4.	Charge Number	: 004
	Total Of Charge	: 1,500,000.00
	Date Of Creation	: 12-12-2018
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED
5.	Charge Number	: 005
	Total Of Charge	: 1,500,000.00
	Date Of Creation	: 12-12-2018
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED
6.	Charge Number	: 006
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 16-01-2019
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED
7.	Charge Number	: 007
	Total Of Charge	: 140,000,000.00
	Date Of Creation	: 16-01-2019
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : **201401048919(1125108-T)**

8.	Charge Number	: 008
	Total Of Charge	: 1,100,000.00
	Date Of Creation	: 16-01-2019
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED
9.	Charge Number	: 009
	Total Of Charge	: 2,397,115.94
	Date Of Creation	: 25-04-2019
	Name Of Chargee	: SMALL MEDIUM ENTERPRISE DEVELOPMENT BANK MALAYSIA BERHAD
	Charge Status	: UNSATISFIED
10.	Charge Number	: 010
	Total Of Charge	: 2,379,115.94
	Date Of Creation	: 25-04-2019
	Name Of Chargee	: SMALL MEDIUM ENTERPRISE DEVELOPMENT BANK MALAYSIA BERHAD
	Charge Status	: UNSATISFIED
11.	Charge Number	: 011
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD
	Charge Status	: UNSATISFIED
12.	Charge Number	: 012
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD.
	Charge Status	: UNSATISFIED
13.	Charge Number	: 013
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD
	Charge Status	: UNSATISFIED
14.	Charge Number	: 014
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD.
	Charge Status	: UNSATISFIED

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : ENE PETRO SERVICES SDN. BHD.

Registration No. : **201401048919(1125108-T)**

15.	Charge Number	: 015
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD.
	Charge Status	: UNSATISFIED
16.	Charge Number	: 016
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD
	Charge Status	: UNSATISFIED
17.	Charge Number	: 017
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 12-03-2020
	Name Of Chargee	: UNITED OVERSEAS BANK (MALAYSIA) BHD.
	Charge Status	: UNSATISFIED
18.	Charge Number	: 018
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 19-02-2021
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED
19.	Charge Number	: 019
	Total Of Charge	: OPEN CHARGE
	Date Of Creation	: 19-02-2021
	Name Of Chargee	: MAYBANK ISLAMIC BERHAD
	Charge Status	: UNSATISFIED

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF FINANCIAL INFORMATION

Name	: ENE PETRO SERVICES SDN. BHD.
Registration No.	: 201401048919(1125108-T)
Auditor	: ZURIN & CO. (AF002192)
Auditor Address	: LOT 22-ACD LEVEL 5 MENARA PANDAN B, PERSIARAN MPAJ JALAN PANDAN UTAMA, PANDAN INDAH 55100, KUALA LUMPUR WILAYAH PERSEKUTUAN
Exempt Private Company	: N/A
Financial Year End	: 31-12-2019
Unqualified Reports (Y/N)	: Y
Consolidated Accounts (Y/N)	: Y
Date of Tabling	: 14-08-2020

BALANCE SHEET ITEMS

Non-Current Assets	:	5,188,731.00
Current Assets	:	3,517,167.00
Non-Current Liabilities	:	3,455,226.00
Current Liabilities	:	2,709,868.00
Share Capital	:	500,000.00
Reserve	:	0.00
Retain Earning	:	1,961,353.00
Minority Interest	:	0.00

INCOME STATEMENT ITEMS

Revenue	:	9,606,064.00
Profit/(loss) before tax	:	747,311.00
Profit/(loss) after tax	:	536,839.00
Net dividend	:	0.00
Minority Interest	:	0.00

** END OF REPORT **

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Registrar of Companies
Dated : 17-09-2021

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Although all efforts have been carried out to ensure that the information provided is accurate and up to date, the Registrar of Companies will not be liable for any losses arising from any inaccurate or omitted information.

CORPORATE INFORMATION

Name	:ENE TECH VENTURES SDN. BHD.
Last Old Name	:Nil
Date Of Change	:Nil
Registration No.	**:201601042900 (1213842-U)**
Incorporation Date	:29-12-2016
Type	:LIMITED BY SHARES PRIVATE LIMITED
Status	:EXISTING
Registered Address	:B-3-2A, BLOCK B OSTIA BANGI BUSINESS AVENUE JALAN OSTIA 1, SEKSYEN 14 BANDAR BARU BANGI SELANGOR
Postcode	:43650
Origin	:MALAYSIA
Business Address	:SUITE 7-03A,NORTH BLOCK THE AMPWALK 218 JALAN AMPANG KUALA LUMPUR WILAYAH PERSEKUTUAN
Postcode	:50450
Nature Of Business	:GENERAL TRADING CONSTRUCTION

MYDATA SSM

User Id: teeliewkd

Date: Fri Sep 17 11:11:13 2021

Printing Date: 17/09/2021

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MENARA SSM@SENTRAL NO 7 JALAN STESEN SENTRAL 5 KUALA LUMPUR SENTRAL 50470 KUALA LUMPUR
TEL 03-2299 4400 FAX 03-2299 4411

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF SHARE CAPITAL

Name : ENE TECH VENTURES SDN. BHD.

Registration No. : 201601042900(1213842-U)

TOTAL ISSUED (RM) 100,000.0000

	CASH	OTHERWISE THAN CASH
ORDINARY	100,000	0
PREFERENCE	0	0
OTHERS	0	0

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

DIRECTORS/OFFICERS

Name : ENE TECH VENTURES SDN. BHD.

Registration No. : 201601042900 (1213842-U)

Name/Address	IC/Passport	Designation	Date Of Appointment
MUHAMMAD HAFIZ BIN AHMAD 18, JALAN PANDAN 5/3 TAMAN PANDAN JAYA 55100 KUALA LUMPUR WILAYAH PERSEKUTUAN	790414-14-5349	DIRECTOR	29-12-2016
MOHD KHAIRUL AMINI BIN A.RAMLI NO. 4, LORONG 8 TAMAN BAGAN PASIR 36200 SELEKOH PERAK	720814-08-5521	SECRETARY	29-12-2016
AHMAD RIDZUAN BIN AHMAD RUSLI NO 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 MALAYSIA 40470 SHAH ALAM SELANGOR	791221-01-6465	DIRECTOR	18-12-2018

MYDATA SSM

User Id: teeliewkl

Date: Fri Sep 17 11:11:13 2021

Printing Date: 17/09/2021

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SHAREHOLDERS/MEMBERS

Name : ENE TECH VENTURES SDN. BHD.

Registration No. : 201601042900(1213842-U)

IC/Passport/ Registration No	Name/Company Name	Total of share
201401048919 (1125108-T)	ENE PETRO SERVICES SDN. BHD.	50,000.00
791221-01-6465	AHMAD RIDZUAN BIN AHMAD RUSLI	50,000.00

SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : ENE TECH VENTURES SDN. BHD.

Registration No. : 201601042900(1213842-U)

NO INFORMATION

MYDATA SSM

User Id: teeliewki

Date: Fri Sep 17 11:11:13 2021

Printing Date: 17/09/2021

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MENARA SSM@SENTRAL, NO 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL 50470 KUALA LUMPUR

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF FINANCIAL INFORMATION

Name	: ENE TECH VENTURES SDN. BHD.
Registration No.	: **201601042900 (1213842-U)**
Auditor	: AZMI ISMAIL & CO. (AF1002)
Auditor Address	: A-1-13A, , 8 AVENUE (SEKSYEN 8 PJ) JALAN SUNGAI JERNIH 8/1, 46050, PETALING JAYA SELANGOR
Exempt Private Company	: N/A
Financial Year End	: 31-12-2019
Unqualified Reports (Y/N)	: Y
Consolidated Accounts (Y/N)	: N
Date of Tabling	: 25-08-2020

BALANCE SHEET ITEMS

Non-Current Assets	:	83,856.00
Current Assets	:	107,814.00
Non-Current Liabilities	:	3,374.00
Current Liabilities	:	126,676.00
Share Capital	:	100,000.00
Reserve	:	0.00
Retain Earning	:	-38,380.00
Minority Interest	:	0.00

INCOME STATEMENT ITEMS

Revenue	:	0.00
Profit/(loss) before tax	:	-17,436.00
Profit/(loss) after tax	:	-17,375.00
Net dividend	:	0.00
Minority Interest	:	0.00

** END OF REPORT **

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Registrar of Companies
Dated : 17-09-2021

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

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CORPORATE INFORMATION

Name	: PROSKY SERVICES SDN. BHD.
Last Old Name	: PRO AUTO RESOURCES SERVICES SDN. BHD.
Date of Change	: 21-09-2017
Registration No.	: **201701032534 (1246704-M)**
Incorporation Date	: 14-09-2017
Registration Date	: Nil
Type	: LIMITED BY SHARES : PRIVATE LIMITED
Status	: EXISTING
Registered Address	: LOT 1143, LEVEL 11, BLOCK A2 LEISURE COMMERCE SQUARE NO. 9, JALAN PJS 8/9 PETALING JAYA SELANGOR
Postcode	: 46150
Origin	: MALAYSIA
Business Address	: NO.16A, JALAN ASTAKA L U8/L SEKSYEN U8, BUKIT JELUTONG BUSINESS AND TECHNOLOGY CENTRE SHAH ALAM SELANGOR
Postcode	: 40150
Nature of Business	: 1) BROKERAGE FOR SHIP AND AIRCRAFT SPACE 2) OTHER CARGO HANDLING SERVICES 3) REPAIR AND MAINTENANCE SERVICES FOR COMMERCIAL AND INDUSTRIAL MACHINERY, EQUIPMENT AND MACHINE TOOLS

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF SHARE CAPITAL

Name : PROSKY SERVICES SDN. BHD.
Registration No. : 201701032534 (1246704-M)

TOTAL ISSUED (RM)		CASH	OTHERWISE THAN CASH
200,000.00			
	ORDINARY	2	199,998
	PREFERENCE	0	0
	OTHERS	0	0

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

DIRECTORS/OFFICERS

Name : PROSKY SERVICES SDN. BHD.
Registration No. : **201701032534 (1246704-M)**

Name/Address	IC/Passport	Designation	Date of Appointment
SAUFI HEZREE BIN MAT SAFIAN NO. 11, JALAN 20/4 SEKSYEN 20 40100 SHAH ALAM SELANGOR	810923-14-5123	DIRECTOR	14-09-2017
YUSNIDAH BINTI YASIN NO 11 JALAN TENGGILING 20/4 MALAYSIA 40300 SHAH ALAM SELANGOR	880324-04-5140	DIRECTOR	10-09-2018
THARMEN ANANTHA A/L SUBRAMANIAN C-7-3 SRI JATI PUCHONG (1) JALAN SRI JATI 3 TAMAN SRI JATI MALAYSIA 58200 KUALA LUMPUR WILAYAH PERSEKUTUAN	840718-02-5939	SECRETARY	14-09-2017

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SHAREHOLDERS/MEMBERS

Name : PROSKY SERVICES SDN. BHD.
Registration No. : 201701032534 (1246704-M)

IC/Passport/ Registration No.	Name	Total of Share
810923-14-5123	SAUFI HEZREE BIN MAT SAFIAN	199,999
880324-04-5140	YUSNIDAH BINTI YASIN	1

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : PROSKY SERVICES SDN. BHD.
Registration No. : 201701032534 (1246704-M)

NO INFORMATION

MENARA SSM@SENTRAL, NO. 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL, 50470 KUALA LUMPUR.
Tel: 03-2299 4400 Fax: 03-2299 4411

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF FINANCIAL INFORMATION

Name : PROSKY SERVICES SDN. BHD.
Registration No. : **201701032534 (1246704-M)**

Auditor : NEK & ASSOCIATES (AF001843)
Auditor Address : NO. 28A, JALAN TAPAH,
OFF JALAN GOH HOCK HUAT
41400
KLANG
SELANGOR

Exempt Private Company : N/A

Financial year end : 31-12-2019
Unqualified reports (Y/N) : Y
Consolidated accounts (Y/N) : N
Date of tabling : 28-09-2020

BALANCE SHEET ITEMS

Non-current assets	:	617,999.99
Current assets	:	1,058,141.62
Non-current liabilities	:	323,547.69
Current liabilities	:	666,035.58
Share capital	:	200,000.00
Reserves	:	0.00
Retained Earning	:	486,558.34
Minority interests	:	0.00

INCOME STATEMENT ITEMS

Revenue	:	4,455,274.33
Profit/(loss) before tax	:	388,542.09
Profit/(loss) after tax	:	304,678.54
Net dividend	:	0.00
Minority interests	:	0.00

END OF REPORT

This information is from the company's document registered as at 10-05-2021

Registrar of Companies
Dated : 27-10-2021

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SURUHANJAYA SYARIKAT MALAYSIA
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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

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PARTICULAR OF DIRECTORS/OFFICERS

CORPORATE INFORMATION

Name	: PROSKY SERVICES SDN. BHD.
Last Old Name	: PRO AUTO RESOURCES SERVICES SDN. BHD.
Date of Change	: 21-09-2017
Registration No.	: **201701032534 (1246704-M)**
Incorporation Date	: 14-09-2017
Registration Date	: Nil
Type	: LIMITED BY SHARES : PRIVATE LIMITED
Status	: EXISTING
Registered Address	: LOT 1143, LEVEL 11, BLOCK A2 LEISURE COMMERCE SQUARE NO. 9, JALAN PJS 8/9 PETALING JAYA SELANGOR
Postcode	: 46150
Origin	: MALAYSIA
Business Address	: NO.16A, JALAN ASTAKA L U8/L SEKSYEN U8, BUKIT JELUTONG BUSINESS AND TECHNOLOGY SHAH ALAM SELANGOR
Postcode	: 40150
Nature of Business	: 1) BROKERAGE FOR SHIP AND AIRCRAFT SPACE 2) OTHER CARGO HANDLING SERVICES 3) REPAIR AND MAINTENANCE SERVICES FOR COMMERCIAL AND INDUSTRIAL MACHINERY, EQUIPMENT AND MACHINE TOOLS

MENARA SSM@SENTRAL, NO. 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL, 50470 KUALA LUMPUR.
Tel: 03-2299 4400 Fax: 03-2299 4411

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PROSKY SERVICES SDN. BHD.
Registration No. : 201701032534 (1246704-M)

CURRENT DIRECTORS/OFFICERS

Name/Address	IC/Passport	Designation	Date of Appointment
SAUFI HEZREE BIN MAT SAFIAN NO. 11, JALAN 20/4 SEKSYEN 20 40100 SHAH ALAM SELANGOR	810923-14-5123	DIRECTOR	14-09-2017
YUSNIDAH BINTI YASIN NO 11 JALAN TENGGILING 20/4 MALAYSIA 40300 SHAH ALAM SELANGOR	880324-04-5140	DIRECTOR	10-09-2018
THARMEN ANANTHA A/L SUBRAMANIAN C-7-3 SRI JATI PUCHONG (1) JALAN SRI JATI 3 TAMAN SRI JATI MALAYSIA 58200 KUALA LUMPUR WILAYAH PERSEKUTUAN	840718-02-5939	SECRETARY	14-09-2017

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PROSKY SERVICES SDN. BHD.
Registration No. : 201701032534 (1246704-M)

* The information of previous directors/officers is extracted from the company's document registered for the last 15 years.

PREVIOUS DIRECTORS/OFFICERS

Name/Address	IC/Passport	Designation	Date of Appointment	Date of Resignation	Date of Removal
AHMAD RIDZUAN BIN AHMAD RUSLI 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 MALAYSIA 40470 SHAH ALAM SELANGOR	791221-01-6465	DIRECTOR	26-08-2020	07-05-2021	
MOHD AZLAN BIN MOHD IHSAN NO. 14, JALAN 18/47 SEKSYEN 18 MALAYSIA 40200 SHAH ALAM SELANGOR	811204-14-5973	DIRECTOR	26-08-2020	07-05-2021	
MUHAMAD FAIZ BIN MAKMUR NO. 11 JALAN KANGKUNG PUTERI SATU 24/7A SEKSYEN 24 40300 SHAH ALAM SELANGOR	860806-43-5311	DIRECTOR	14-09-2017	11-09-2018	

SURUHANJAYA SYARIKAT MALAYSIA
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COMPANIES COMMISSION OF MALAYSIA

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Tel: 03-2299 4400 Fax: 03-2299 4411

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

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CORPORATE INFORMATION

Name	: PERTAMA GEMILANG SDN. BHD.
Last Old Name	: Nil
Date of Change	: Nil
Registration No.	: **202001002881 (1359200-M)**
Incorporation Date	: 22-01-2020
Registration Date	: Nil
Type	: LIMITED BY SHARES : PRIVATE LIMITED
Status	: EXISTING
Registered Address	: 2A-03-2 LORONG BATU NILAM 4A BANDAR BUKIT TINGGI KLANG SELANGOR
Postcode	: 41200
Origin	: MALAYSIA
Business Address	: 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 SHAH ALAM SELANGOR
Postcode	: 40470
Nature of Business	: OIL AND GAS EXTRACTION SERVICE ACTIVITIES PROVIDED ON A FEE OR CONTRACT BASIS WHOLESALE OF OTHER CONSTRUCTION MATERIALS, HARDWARE, PLUMBING AND HEATING EQUIPMENT AND SUPPLIES N.E.C. WHOLESALE OF INDUSTRIAL MACHINERY, EQUIPMENT AND SUPPLIES

MENARA SSM@SENTRAL, NO. 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL, 50470 KUALA LUMPUR.
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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF SHARE CAPITAL

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

TOTAL ISSUED (RM) 30,000.00	CASH	OTHERWISE THAN CASH
ORDINARY	30,000	0
PREFERENCE	0	0
OTHERS	0	0

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

DIRECTORS/OFFICERS

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

Name/Address	IC/Passport	Designation	Date of Appointment
AHMAD RIDZUAN BIN AHMAD RUSLI 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 40470 SHAH ALAM SELANGOR	791221-01-6465	DIRECTOR	22-01-2020
CHEW KIM CHYE 2A-03-2 LRG BATU NILAM 4A BANDAR BUKIT TINGGI 41200 KLANG SELANGOR	520711-10-5167	SECRETARY	22-01-2020

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SHAREHOLDERS/MEMBERS

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

IC/Passport/ Registration No.	Name	Total of Share
791221-01-6465	AHMAD RIDZUAN BIN AHMAD RUSLI	30,000

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

COMPANY CHARGES

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

NO INFORMATION

Printing Date : 27-10-2021
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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

SUMMARY OF FINANCIAL INFORMATION

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

Auditor : N/A
Auditor Address : N/A

Exempt Private Company : N/A

Financial year end : N/A
Unqualified reports (Y/N) : N/A
Consolidated accounts (Y/N) : N/A
Date of tabling : N/A

BALANCE SHEET ITEMS

Non-current assets : N/A
Current assets : N/A
Non-current liabilities : N/A
Current liabilities : N/A
Share capital : N/A
Reserves : N/A
Retained Earning : N/A
Minority interests :

INCOME STATEMENT ITEMS

Revenue : N/A
Profit/(loss) before tax : N/A
Profit/(loss) after tax : N/A
Net dividend : N/A
Minority interests : N/A

END OF REPORT

This information is from the company's document registered as at 03-03-2021

Registrar of Companies
Dated : 27-10-2021

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Although all efforts has been carried out to ensure that the information provided is accurate and up to date, the Registrar of Companies will not be liable for any losses arising from any inaccurate or omitted information

PARTICULAR OF DIRECTORS/OFFICERS

CORPORATE INFORMATION

Name	: PERTAMA GEMILANG SDN. BHD.
Last Old Name	: Nil
Date of Change	: Nil
Registration No.	: **202001002881 (1359200-M)**
Incorporation Date	: 22-01-2020
Registration Date	: Nil
Type	: LIMITED BY SHARES : PRIVATE LIMITED
Status	: EXISTING
Registered Address	: 2A-03-2 LORONG BATU NILAM 4A BANDAR BUKIT TINGGI KLANG SELANGOR
Postcode	: 41200
Origin	: MALAYSIA
Business Address	: 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 SHAH ALAM SELANGOR
Postcode	: 40470
Nature of Business	: OIL AND GAS EXTRACTION SERVICE ACTIVITIES PROVIDED ON A FEE OR CONTRACT BASIS WHOLESALE OF OTHER CONSTRUCTION MATERIALS, HARDWARE, PLUMBING AND HEATING EQUIPMENT AND SUPPLIES N.E.C. WHOLESALE OF INDUSTRIAL MACHINERY, EQUIPMENT AND SUPPLIES

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

CURRENT DIRECTORS/OFFICERS

Name/Address	IC/Passport	Designation	Date of Appointment
AHMAD RIDZUAN BIN AHMAD RUSLI 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 40470 SHAH ALAM SELANGOR	791221-01-6465	DIRECTOR	22-01-2020
CHEW KIM CHYE 2A-03-2 LRG BATU NILAM 4A BANDAR BUKIT TINGGI 41200 KLANG SELANGOR	520711-10-5167	SECRETARY	22-01-2020

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

* The information of previous directors/officers is extracted from the company's document registered for the last 15 years.

PREVIOUS DIRECTORS/OFFICERS

Name/Address	IC/Passport	Designation	Date of Appointment	Date of Resignation	Date of Removal
MOHAMMAD FAIZAN BIN ABD KHAHAR 12 JALAN SS 5C/1B KELANA JAYA 47301 PETALING JAYA SELANGOR	840518-14-5207	DIRECTOR	22-01-2020	15-05-2020	

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UserID : lawfadhlisut Date :Wed Oct 27 21:41:50 +08 2021 Printing Date : 27-10-2021
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MENARA SSM@SENTRAL, NO. 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL, 50470 KUALA LUMPUR.
Tel: 03-2299 4400 Fax: 03-2299 4411

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(Agensi di bawah KPDNHEP)

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PARTICULARS OF SHAREHOLDER

CORPORATE INFORMATION

Name	: PERTAMA GEMILANG SDN. BHD.
Last Old Name	: Nil
Date of Change	: Nil
Registration No.	: 202001002881 (1359200-M)
Incorporation Date	: 22-01-2020
Registration Date	: Nil
Type	: LIMITED BY SHARES : PRIVATE LIMITED
Status	: EXISTING
Registered Address	: 2A-03-2 LORONG BATU NILAM 4A BANDAR BUKIT TINGGI KLANG SELANGOR
Postcode	: 41200
Origin	: MALAYSIA
Business Address	: 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 SHAH ALAM SELANGOR
Postcode	: 40470
Nature of Business	: OIL AND GAS EXTRACTION SERVICE ACTIVITIES PROVIDED ON A FEE OR CONTRACT BASIS WHOLESALE OF OTHER CONSTRUCTION MATERIALS, HARDWARE, PLUMBING AND HEATING EQUIPMENT AND SUPPLIES N.E.C. WHOLESALE OF INDUSTRIAL MACHINERY, EQUIPMENT AND SUPPLIES

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

CURRENT SHAREHOLDERS

ID/Passport/ Registration No	Name/Address	Total Share
791221-01-6465	AHMAD RIDZUAN BIN AHMAD RUSLI 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 MALAYSIA 40470 SHAH ALAM SELANGOR	30,000

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SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA
(Agensi di bawah KPDNHEP)

Name : PERTAMA GEMILANG SDN. BHD.
Registration No. : 202001002881 (1359200-M)

CHANGE OF SHAREHOLDING

This information of change of shareholdings is extracted from the company's document registered as of 31 January 2017 based on the last ten (10) date of change in shareholding lodged with SSM.

(1) Date of change in shareholding: 04-06-2020

ID/Passport/ Registration No.	Name/Company Name/Address	Share IN	Share OUT	Total
840518-14-5207	MOHAMMAD FAIZAN BIN ABD KHAHAR 12 JALAN SS 5C/1B KELANA JAYA 47301 PETALING JAYA SELANGOR	0	15,000	0
791221-01-6465	AHMAD RIDZUAN BIN AHMAD RUSLI 2 JALAN PANGLIMA AWANG 35/126D ALAM IMPIAN SEKSYEN 35 40470 SHAH ALAM SELANGOR	15,000	0	30,000

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COMPANIES COMMISSION OF MALAYSIA

UserID : lawfadhlisut Date :Wed Oct 27 21:41:49 +08 2021 Printing Date : 27-10-2021

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MENARA SSM@SENTRAL, NO. 7 JALAN STESEN SENTRAL 5, KUALA LUMPUR SENTRAL, 50470 KUALA LUMPUR.
Tel : 03-2299 4400 Fax : 03-2299 4411

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BAHAGIAN

B

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ENE Petro Services Sdn. Bhd
Suite 7.03A, North Block,
The Ampwalk, 218 Jalan Ampang,
50450 Kuala Lumpur

10 July 2017

Dear Ahmad Ridzuan Ahmad Rusli,

RE : LETTER OF APPOINTMENT

We refer to the recent discussion and subsequent telephone conversation, and are pleased to offer you the position of **Sales Director** with our company.

The terms and conditions of employment are as follows:-

1) Your commencing salary shall be [redacted]

2) You will commence work on Monday, 7th August 2017.

3) This contract of service may be terminated by either party giving three (3) months notice or payment in lieu of notice.

4) Your working hours will be from 9.00 am to 6.00 pm (Monday to Friday) on the average of forty hours per week.

5) You shall not disclose or divulge at any time either during the currency of this contract or thereafter, any secrets, transactions or information in or relative to our business which may come within your knowledge or possession in the course of your employment by our company and which should be disclosed, divulged or made public save in the course of your duties.

We trust that you will find the above terms and conditions agreeable and to your satisfaction.
Please sign the duplicate copy of this letter as acceptance of the terms and conditions and return it to us within 7 days upon receipt of this letter.

We would like to wish you success in your new assignment with our company and we are confident that with hard work and undivided attention to your responsibilities, you will make a positive contribution to the growth of our Company.

Yours faithfully,
ENE PETRO SERVICES SDN BHD

MUHAMMAD HAFIZ AHMAD
Managing Director

I, AHMAD RIDZUAN .....agree to the terms and conditions of employment embodied in the above letter and accept the position offered

.....
SIGNATURE OF EMPLOYEE

10/7/2017
.....
DATE

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FIRST SCHEDULE

ANNUAL LEAVE

1. Annual leave shall be taken at such time and period as the company shall determine.

2. If the company decides to have an annual shut-down such period shall be considered as part of the total paid annual leave to which the employee is entitled.

3. The employee shall be entitled to one more day of paid leave for every year of service completed, after the first twelve months of continuous service but subject to a maximum of twenty one (21) days.

SECOND SCHEDULE

MEDICAL BENEFITS

1. CONSULTATION OF COMPANY'S PHYSICIAN

The employee is entitled to consult the company's physician and to consult a specialist medical consultant practicing in Kuala Lumpur recommended by the company's physician subject to the limits as established by the company from time to time. The costs of such consultations and medicine prescribed shall be borne by the company.

YEAR OF SERVICE	MEDICAL CLAIM LIMIT
1st year service	RM2000
2nd year service	RM 3000
3rd year service	RM 4000

Additional RM 500 for additional year of service to the company.

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5. TERMINATION OF EMPLOYMENT

5.1 TERMINATION

The employment of an employee may be terminated:

(a) by either party hereto, giving the other three (3) months notice in writing of that party's intention to terminate or salary in lieu thereof;

(b) by the company without notice in the event of serious misconduct or persistent un-punctuality, neglect of duty or breach of any rules or regulations, for the time being, made by the company or breach of any of the terms and conditions of this agreement;

(c) by the company, without notice, if in the opinion of the company, on the advice of the company's physician given subsequent to the certification by the company's physician pursuant to Clause 2 (b) hereof, the employee, through illness or accident certified by the Company's physician as not to have been caused by his or her own misconduct, is unable to perform his or her duties fully. In such as event, the employee shall be paid in accordance to local regulations.

6. UNDERTAKING

(a) During his or her employment, the employee shall not engage in any other employment or business, whether in competition with the company or not, without the prior approval of the company.

(b) The employee shall not, at any time during his or her employment hereunder (except so far as necessary and proper in the course of his or her employment) or afterwards, disclose to any person any information as to the trade secrets, technical processes and data, practices, business dealing or affairs of the company or any of its clients or as to any other matter which may come to his or her knowledge by reason of his or her employment.

(c) The employee shall not remove from the company's premises any paper, notes, letters, telexes, calculations, drawings and any other documents whatsoever belonging to or in the possession of the company and, on the termination of his or her employment, shall return to the company all such documents to the company.

7. ADDITIONAL TERMS AND CONDITIONS

(a) The employee shall comply with the rules and regulations for the time being, of the company which rules and regulations the company reserves the right to alter from time to time, as the company shall deem fit.

(b) This agreement shall be governed by, and be constructed in accordance with the laws of the country and the parties hereto, hereby submit to the exclusive jurisdiction of the courts of the country.

(c) If any provision contained in this agreement is or shall be contrary to the laws of country and is or shall be unenforceable according to law, then, such provision shall cease to be valid without prejudice to the other provisions contained in this agreement.

(d) Any variation to the terms and conditions hereof and any amendments made to this agreement shall not be valid or enforceable unless made in writing and executed by the parties hereto.

IN WITNESS HEREOF the parties hereto have hereunto set their hands the days and year first written above.

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THIS AGREEMENT IS MADE ON THE 10th of July 2016, between ENE Petro Services SDN BHD, a company incorporated in Malaysia and having its office at Suite 7.03A, North Block The Ampwalk, 218 Jalan Ampang, 50450 Kuala Lumpur, (hereinafter called "the company" which expression shall be deemed to include its successors and assigns) and Ahmad Ridzuan Ahmad Rusli hereinafter called "the employee" of the other part.
WHEREBY IT IS AGREED as follows:-

1. ASSIGNMENT
The company shall employ the employee and the employee shall serve the company initially in the capacity of and other related services and upon the terms and subject to the conditions herein contained.

2. DATE OF EMPLOYMENT
The employment of the employee will commence on 7th August 2017 and shall continue until terminated in accordance with the provisions of this Agreement.

3. WORKING HOURS

(a) The employee shall work on the average for forty (40) hours per week and working hours shall be fixed by the company from time to time, at its sole discretion.

4. REMUNERATION AND BENEFITS

(a) SALARY
The company shall pay the employee a basic monthly salary at the rate of **(Malaysian Ringgit: Eighteen Thousand Five Hundred Only), RM 18,500.00**, payable in arrears not later than on the last day of each calendar month and, unless otherwise provided for in this agreement, the employee shall not be entitled to any other allowance except at the discretion of the company or as may be provided for in the company regulations for the time being.

(b) EMPLOYEES PROVIDENT FUND
The company shall comply fully with valid regulation of EPF in terms of Employer's contribution.

(c) PAID ANNUAL LEAVE
The employee shall be entitled initially to paid annual leave of Eighteen (18) days for every twelve (12) months continuous service and if he or she works for less than twelve (12) months he or she shall be entitled to pro-rata paid leave based on the number of completed months service in addition to all statutory holidays and in accordance with the terms set out in the First Schedule to this Agreement.

(d) SICK LEAVE BENEFIT
An aggregate of twelve (12) days paid sick leave in each year, on each occasion of a medical issued by the physician.

(e) MEDICAL BENEFIT

The employee shall be entitled to medical benefits in accordance with the terms set out in the Second Schedule to this Agreement.

(f) INCOME TAX
You will be responsible for payment of your personal income tax or any taxes incurred in Malaysia.

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ENE Petro Services Sdn. Bhd
Suite 7.03A, North Block,
The Ampwalk, 218 Jalan Ampang,
50450 Kuala Lumpur

17 July 2017

Dear Ahmad Ridzuan Ahmad Rusli

RE : CONFIRMATION ON APPOINTMENT AS BUSINESS DEVELOPMENT MANAGER

We refer to our recent discussion,

Due to your commitment to your current employer, we hereby agree that you shall only commence your work with us on 2nd February 2018.

All other terms in the letter of appointment dated 10 July 2017 shall only be effective from the date of your work commencement.

Yours faithfully,
ENE PETRO SERVICES SDN BHD

ENE Petro Services Sdn Bhd 1125108-T

MUHAMMAD HAFIZ AHMAD
Managing Director

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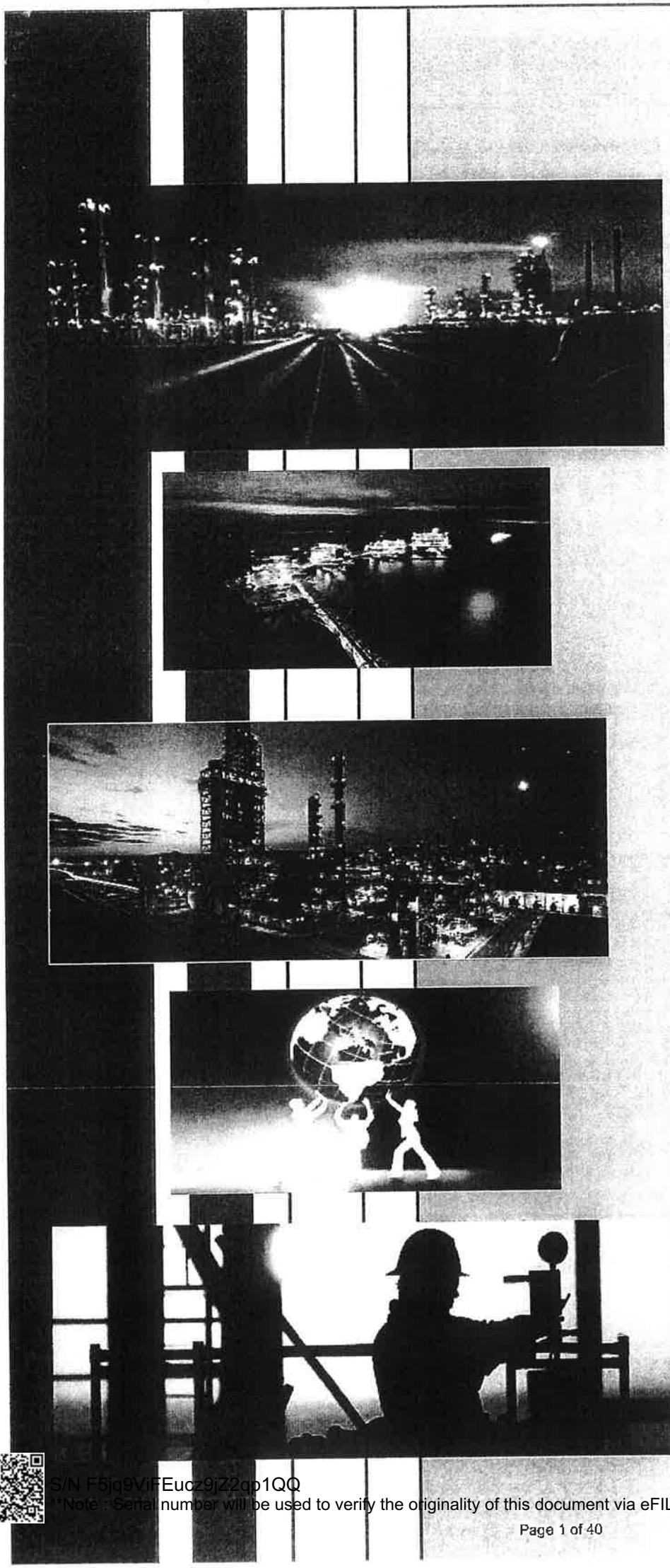

ENE PETRO SERVICES SDN BHD

EMPLOYEE HANDBOOK

S/N F5jq9ViFEucz9jZ2qp1QQ
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INTRODUCTION

This Employee Handbook outlines the latest status of the terms and conditions of employment to all full-time, permanent & contract Employees of **ENE Petro Services Sdn Bhd.**

It serves as a standard guideline and reference to increase understanding, to eliminate the need for personal decisions on matters of Company policy and helps to ensure uniformity throughout the Company.

This Employee Handbook will be provided to all staffs on commencement of employment and will form as part of the employment contract. Where conditions in this Employee Handbook differ from those set out in the letter of offer, the conditions in the letter of offer will apply.

The Company reserves the rights to introduce, amend, modify or annul any terms and conditions at any time during its operation to ensure its competitiveness in the market. Such amendment shall be made known to all staffs through circulars signed by the MD / HR Manager and such circular shall deem to form as part of this Employee Handbook.

This Employee Handbook is the property of the Company and is strictly confidential. This handbook must be returned to the Human Resource Department upon leaving the services of the Company.

Further information on the contents of the Handbook should be directed to the Human Resources Department for further clarification.

THE COMPANY RESERVES ALL THE RIGHTS ON THE REGULATIONS AND POLICIES STATED IN THIS EMPLOYEE HANDBOOK. THUS, NO PARTS OF THIS HANDBOOK ARE TO BE USED FOR ANY LEGAL ACTIONS AGAINST THE COMPANY.

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1.0 DEFINITIONS

In this Employee Handbook, the following definition shall apply:

Company	Company means **ENE Petro Services Sdn Bhd**
Employee	Employee means any person who is categorized under a Permanent or Contract staff and is employed under a Contract of Employment with the Company.
Family	Family shall include: 1 Legal wife and dependant children of a male Employee, or 2 Legal husband and dependant children of a female Employee
Children	An Employee's natural, legally adopted and step children who are unmarried and unemployed up to eighteen (18) years of age *and up to twenty-three (23) years of age for children undergoing full time education (up to first degree only).*
Day	Day is defined as 24 hours from midnight to midnight or a period of 24 hours from any point of time.
Unpaid Leave	Unpaid leave means leave taken by Employees without any compensation given by the Company.
Misconduct	Misconduct is defined as an act of commission or omission, which is inconsistent with the fulfillment of the expressed or implied conditions of the Employee's contract of service.
Breach of Contract	Where a party to a contract fails to fulfill his/her obligations as per the Contract of Employment, either expressed or implied.
Statutory Deduction	Deduction from an Employee's wages that are sanctioned by law e.g EPF contribution and Income Tax etc.
Inefficiency	Inefficiency means performance of work, which is below the Company requirements, repeated over a period of time.
Senior Executive	Senior Engineer, Senior Finance Executive, Senior HR Executive and Senior Proposal Engineer.
Executive	Engineers, Design / Document Control Coordinators, Document Control Executive, PDMS Administrator, Senior Designer, HR Executive, , Finance Executive, Accounts Executive, Secretary, Procurement Executive, IT Executive, Administration Executive and Business Development Executive.
Non- Executive	Technician, Designer, Drafter, Project Secretary, Administration Clerk, Accounts Clerk, HR Clerk, Tea Lady, Technical Assistant, Receptionist and Document Controller.
Technical Executive	Procurement Engineer, Process Engineer, Electrical Engineer, Planning Engineer, Project Engineer, QA Engineer, Civil / Structural Engineer, 3D Modeler, Mechanical / Piping Engineer, Instrumentation Engineer, PDMS Engineer, Design Coordinator, PDMS Administrator and Senior Designer.
Non-Tech Executive	HR Executive, Finance Executive, Account Executive, CEO's Secretary, Operation Secretary, Librarian, Procurement Executive, IT Executive, Administration Executive and Business Development Executive.

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2.0 TERMS AND CONDITIONS OF EMPLOYMENT

2.1. APPOINTMENT

All employment shall be in accordance with the Employment Ordinance and the Company's policy. All Employees hired shall be issued with a letter of employment or contract, which will state all the terms and conditions of employment with the Company.

The letter of employment may make reference to this Employee Handbook. Where the content of the letter of employment differ from this Employee Handbook, the condition in the letter of employment will apply.

Any queries relating to the terms and conditions of employment should be raised before formal acceptance of the offer. Staff may refer to Job Description (JD) in the QMS for job scope guidelines.

2.2 PROBATION

A permanent Employee with probation period stated in his/her appointment letter will be confirmed when he / she has successfully undergone his/her probationary period.

The normal period of probation for a new permanently hired Employee will be six (6) months. At the discretion of Company's management, the probationary period may be reduced or extended accordingly.

The Employee will be notified in writing by the Company on his/her confirmation.

In the event the Employee fails to meet the minimum level of performance after the extended period, the Employee shall not be confirmed and his/her services shall be terminated.

During probation period, either the Employee or the Company may terminate the employment by giving written notice or by paying salary in lieu of such notice period as follows:

CATEGORY	***NOTICE PERIOD***
Senior Executive *Technical Executive*	*1 month*
Non-Tech Executive *Non-Executive*	*2 weeks*

2.3 CONFIRMATION

Employee whom has been converted from contract to permanent will be notified in writing by the Company on his/her confirmation.

2.4 PROMOTION

The Company, at its sole discretion, may promote suitable candidates to any position as it deems fit in recognition of Employees' performance and to assist in the realization of Employees' career potential.

Priority for promotion will be given to internal candidates. The Company will only fill the position from external sources if no existing Employees have been found suitable to fill such vacancies.

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2.5 RETIREMENT

The retirement age is the date on which the Employee attains the age of 60 years old effective 1st July, 2013.

Re-employment after an Employee's retirement with the Company shall be depending on requirement and sole discretion by the Company. This employment continuation shall be on a contractual basis.

Upon continuation of the employment after retirement, an Employee is required to adhere to any statutory deduction, which is governed under the employment law such as EPF, SOCSO, IRB and etc.

2.6 PROJECT ASSIGNMENT / TRANSFER

An Employee who is assigned on a project, which will require him / her to reside in other office than his/her normal work location, will be informed by the management on the terms and conditions of his/her assignment.

An Employee may be transferred to a new department or office whether on a temporary or permanent basis and will be given a transfer letter at the time of his/her transfer.

2.7 BOARD OF ENGINEERS

Malaysian Engineers shall register with the Board of Engineers (BOE) within three (3) months of their employment. The Company shall reimburse the cost of the registration.

2.8 PASSPORT, VISA AND WORK PERMIT/EMPLOYMENT PASS

The Company shall subsidize up to a maximum of RM300.00 against original receipts for a 32 pages of Malaysia International Passport Processing fee with validity period of 5 years and the cost for passport photo.

This is applicable to new or renewal of international passport should an Employee is required to travel overseas due to business trip or project assignment.

The Company shall pay all associated cost for renewal of Visa and Work Permit/Employment Pass for Regional and Expatriate Staff to work in the Company. In the event the Employee opts to apply for Resident Pass (RP), the cost shall be borne by the Employee.

The Company shall also pay for all associated cost for obtaining Visa and / or Work Permit for those who are required to travel on Company business, training or work on Company assignment.

2.9 DUAL ENTITLEMENT

An Employee and Spouse employed by the Company shall not be provided dual Married Benefits.

Spouse of a higher grade shall receive the Married Status Benefits while the Spouse of a lower grade shall receive the Single Status Benefits. As such, the children shall be registered under the spouse with higher grade.

There will be no duplication of Medical Insurance and Annual Air ticket as the Spouse on Married Status Benefit shall automatically eligible for such benefits.

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3.0 WORKING HOURS AND OVERTIME

3.1 PUBLIC HOLIDAYS

The Company shall observe all gazette Federal and State public holidays with the following condition:

a. If a public holiday falls on Sunday, then the next working day shall be declared as a holiday in substitution thereof

b. If a public holiday falls within the period when an Employee is on annual leave, the Employee will receive for each such holiday an additional day's leave which will be taken as an extension to the annual leave.

c. If the Employee is based in the client's office, it should be in line with the client practice.

Due to the nature of the Company business, it may be necessary for some of the Employees to work on a holiday. If this occurs, at Company's discretion, eligible Employees will be substituted with a replacement off day or paid overtime for work done in accordance with the prevailing rates applicable.

3.2 WORKING HOURS

All Employees are required to observe Company official working hours, which may vary depending on the location of the office. The official working hours are as follows:

a. Kuala Lumpur Office

DAY	WORKING HOURS
Monday – Friday	8.00 a.m. to 5.15 p.m.
Lunch Break (Monday –Thursday)	12.30 p.m. to 1.30 p.m.
Lunch Break (Friday)	12.30 p.m. to 2.30 p.m.

Flexible start time is between 7.45 a.m. to 9.00 a.m. Employees are to start work not later than 9.00 am

Employee must complete a minimum of 8.15 working hours in a day.

All Employees are prohibited from leaving the office after clocking in for breakfast, morning coffee break or afternoon tea break.

Notwithstanding to the above, it is recognized that pending on operational needs, some Employees may have the working hours staggered accordingly, including shift work. The management or the Employee's supervisor will communicate this requirement directly to the Employee concerned.

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3.3 ABSENTEEISM

Regular attendance and punctuality is essential. Advance notice of absence should be given to the superior. When circumstances make this impossible, the Employee should notify his/her superior at the earliest possible opportunity.

Absence without notification will be deemed as emergency leave and will be deducted from the annual leave entitlement. If the Employee is absent for **more than two (2) days (48 hours) without prior approval** from the immediate superior and without reasonable grounds, the Employee will be **deemed to be in breach of his/her Contract of Employment and may be liable for termination.**

3.4 OVERTIME

Overtime is defined as work performed outside the normal official working hours inclusive of traveling hours performed after 6 pm for KLHO and after 5 pm for MDO. Overtime rate per hour will be paid as follows:

SALARY RANGE	HEAD OFFICE	CLIENT OFFICE
RM 1,500 and below	OT = NR x 1.2	OT = NR x 1.2
RM 1,501 and above	OT = NR x 1.0 or RM 40/hr (which ever lower)	OT = NR x 1.0 or RM 40/hr or Fixed Rate (which ever lower)

Normal Rate (NR) is calculated as follows:

Normal Rate, NR =	$\frac{\textit{Base Salary x 12 month}}{40 \times 52}$

All technical and non-technical staffs are entitled for overtime. Staffs are required to submit Overtime Request and obtain approval from the approval parties prior to performing any overtime works.

Only approved overtime hours by the client / Project Manager / Manager of Department will be paid. Overtime excludes time taken off for meals.

1. Weekdays: At the request of the Company, the in-house overtime can only be done to a maximum of 4 hours/day during normal working day. Prior written approval must be obtained from the respective Manager of Department and Project Manager.
2. Sat/Sun/Public Holiday: Overtime entitlement shall be at a maximum of 10 hours only. Overtime claim which is more than 5 hours to be deducted by 1 hour for time break allocation. Minimum overtime claim is 1 hour and odd number of hours shall be rounded down to the nearest hour.

All current month overtime must be approved by the Manager of Department by 15th of the following month or else the overtime shall be forfeited and shall not be paid to the Employee.

It should be noted that continuation of unfinished routine work after normal working hours is not eligible for overtime. A practice of approving overtime after the overtime is performed is not allowed.

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4.0 LEAVES

4.1. ANNUAL LEAVE

An Employee is entitled to annual leave as follows:

	PERMANENT / CONTRACT
1st year of service:	
Senior Executive & Above	18 days
Executive & Below	14 days
2nd year of service:	
Senior Executive & Above	19 days
Executive & Below	15 days
Subsequent year of service	Additional 1 day
Senior Executive & Above	Up to 21 days
Executive & Below	Up to 18 days

a. Application for Annual Leave should be in the aggregate of either half (½) or one (1) day leave

b. Saturday, Sunday and gazette public holidays shall be excluded when computing the annual leave.

c. Current year annual leave balance may be carried forward to the following year. All carried forward leaves must be utilized by 30th June of the following year or else, the leave will be forfeited except for special circumstances where approval needs to be obtained from Manager of Department and HRM. Special circumstances that may be considered are as follows:

1. To Perform Umrah and Hajj
2. Long Vacation (Regional Staff)
3. Marriage / Examination

d. An Employee shall plan his leave and give sufficient notice at least five (5) days to the approving authority before taking his leave.

d. Annual leave is the prerogative of the management. The Company reserves the right to recall Employees from leave or to cancel their leaves if their services are required urgently.

f. If an Employee resigned / hired / terminated by the Company or not entitle for full month of salary, Company shall use the following formula for calculation:

$$\frac{A \times B}{C}$$

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Where: A – Base salary
B – Number of employment days in a month
C – Fixed number in a month equal to 30 days

4.2 EMERGENCY LEAVE

An Employee may be granted emergency leave for the purpose of attending unforeseen domestic emergencies which requires his personal attendance. This leave will be set-off against his/her annual leave.

Any unapproved emergency leave shall be considered as unpaid leave.

Employees taking the Emergency Leave shall inform his/her Heads of Department about his/her absent as soon as possible, latest, by 10.00 a.m. of the same day, failing which he / she will be considered to be absent without reasonable excuse.

4.3 UNPAID LEAVE

An Employee may be granted unpaid leave for personal reasons provided that he / she has utilized his/her annual leave or he / she is not eligible for paid annual leave. The Company does not encourage unpaid leave. Leave will not be granted if it results in significant inconvenience or more than normal expense to the Company. Reasons may be considered for unpaid leave are:

a. Pilgrimage.

b. Examinations, in excess of the approved leave.

c. Compelling personal reasons - serious domestic problem, participation in sports at national level.

Application for unpaid leave has to be approved by the Manager of Department, HRM and MD. Unpaid leave will be calculated using the following formula:

Unpaid Leave =	$\frac{\text{Base Salary x 12 month}}{\text{5 days x 52 weeks}}$

4.4 UNRECORDED LEAVE

The Company shall grant unrecorded leave for reasons of unavoidable duties and any other statutory / national related or exceptional events. The Company, at its discretion may impose conditions for granting unrecorded leave. The following circumstances will be categorized as unrecorded leave:

a. Involved in National Ballot – ½ day only

b. Jury Duty (does not include personal court appearances)

c. Statutory / National Related Events - includes Military training, Red Crescent, etc. as may be determined by Company.

The Company may decide on the leave entitlement for the applicable Employee on a case-to-case basis. Application for unrecorded leave has to be recommended by the Manager of Department and approved by the HRM / MD.

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4.5 MATERNITY LEAVE

A female Employee is entitled for paid maternity leave for a period of sixty (60) consecutive days (including Saturday, Sunday and gazette public holidays) in respect of each confinement up to maximum of five (5) legal surviving children.

a. Maternity leave shall be applied at least two months in advance to the Manager of Department and HRM. A certificate from a qualified doctor must be submitted with the application for maternity leave.

b. Maternity leave shall only applicable after completion of at least twenty-two weeks of pregnancy due to legal marriage. Absence from work due to miscarriage prior to twenty-two weeks of pregnancy will not be regarded as maternity leave but as normal sick leave.

c. Maternity leave is granted in addition to annual leave.

4.6 MEDICAL LEAVE

An Employee who is unable to work because of illness is required to notify his/her Head of Department at the earliest opportunity or before 12.00 noon's on the day of absence indicating the nature of illness and length of medical leave anticipated.

a. The Company reserves the right to seek second medical opinion from other medical practitioners on a case-by-case basis.

b. Employees are entitled for paid medical leave on submission of a certificate from a registered medical practitioner or appropriate hospital authorities up to a period of 14 days per calendar year.

c. Medical leave taken in excess of the said limit will be treated as unpaid leave.

d. Unutilized medical leave in any calendar year will be forfeited.

e. An Employee, who fail to inform the Company of his/her medical leave for more than **forty eight (48) hours is deemed to be in breach of his/her Contract of Employment** and may be liable for termination.

f. Employees on medical leave shall be required to produce a Medical Certificate, signed by a certified Medical Practitioner, indicating the medical leave period and nature of illness, upon reporting for duty. *Sick leave should not exceed two (2) days per Medical Certificate.*

g. Medical Certificate from Government Hospital must be signed by the authorized doctor on duty.

h. Application for Medical Leave should be in the agregate of one (1) day leave

i. Employees are to apply for Medical leave and submit the original Medical Certificate with the application reference number to HR Department.

j. If the Employee is often absent due to ill-health which is affecting his/her work, he / she may be requested by the Company to take a medical examination in order to clarify the nature of the illness / sickness. If the Employee is found, by reason of poor health, to be unfit for work, his/her services might be terminated under medical grounds.

4.7 HOSPITALISATION LEAVE

Hospitalization leave is granted to enable an Employee who is certified by a registered medical practitioner or medical officer to be ill enough and need to be hospitalized or those who deemed to have the need but are not hospitalized for any reason whatsoever, to rest and recover.

4.7.1 Permanent Employees are eligible to an aggregate of sixty (60) days of paid hospitalization leave less the number of days of medical leave taken in a calendar year.

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4.7.2 Temporary, probationer and contract Employees are entitled to an aggregate of thirty (30) days of paid hospitalization leave less the number of medical leave taken in each calendar year.

4.8 PROLONGED ILLNESS LEAVE

On the recommendation of a registered medical practitioner or appropriate hospital authorities that the Employee requires further treatment suffering from tuberculosis, cancer, leukemia or any other disease or illness of prolonged nature shall in addition to his medical leave entitlement be granted Prolonged Illness Leave as follows:

a. A maximum of three (3) month on full pay

b. A further three (3) consecutive months on half pay

c. A further six (6) consecutive months without pay.

Only permanent Employees who has completed **two (2)** full years of service with the Company is eligible with this "Prolonged Illness Leave" entitlement.

4.9 DRUG AND ALCOHOL REHABILITATION LEAVE

When learnt, or on suspicion of an Employee's dependency on drug or alcohol, any staff must inform the matters to his Manager of Department or the management.

At the Company's sole option, in consultation with medical advice, the Company may assist an Employee to undergo rehabilitation (on no-pay leave) but does not waive its right to dismiss the Employee.

An Employee who has undergone rehabilitation with the Company's assistance and becomes dependent a second time will be dismissed.

Any Employee who is convicted of any offense under the laws pertaining to drugs shall be liable to immediate dismissal.

4.10 MOBILIZATION / DEMOBILIZATION LEAVE

An Employee who is transferred away from his normal work area, which necessitates him to relocate (applicable for long term assignment only) is entitled to a paid mob/demob leave (including traveling time) as follows:

STATES	NO OF DAYS
Within Peninsular Malaysia / within Sabah & Sarawak	1 working day
Peninsular Malaysia to / from Sabah or Sarawak	2 working Days

The above provision on mobilization / demobilization leave shall not apply to transfer made on personal request.

Air ticket associated to the mobilization/demobilization shall be provided by the Company upon completion of the assignment.

4.11 COMPASSIONATE LEAVE

Employee will be granted paid compassionate leave under the following circumstances upon approval by his/her Department Head / Project Manager and HRM.

4.11.1 Matrimonial Leave

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Granted for the first legal marriage during his/her period service with the Company. Employee must submit a copy of his/her marriage certificate or wedding ceremony invitation card with LISA application number to HR Department.

- 3 *consecutive* working days

4.11.2 Marriage of Legal Child

Employee must submit a copy of his/her legal child's marriage certificate or wedding ceremony invitation card with LISA application number to HR Department.

- 2 *consecutive* working days

4.11.3 Paternity Leave

Birth of legal child. Employee is to apply for the leave through LISA and submit a copy of birth certificate of the child concerned to HR Department.

Paternity leave should be taken after the birth of the child.

- 2 *consecutive* working days

4.11.4 Bereavement Leave

Death of an immediate family member including:

1. Husband / Wife - 3 *consecutive* working days
2. Legal Children, Parents - 3 *consecutive* working days
3. Parent's in Law - 2 *consecutive* working days
4. Brothers and Sisters - 2 *consecutive* working days

Employee is to apply for the leave through LISA and submit a copy of death certificate of the family member concerned to HR Department.

4.11.5 Calamity Leave

Applicable to natural disasters such as fire, flood, and earthquake etc. which directly affecting Employees. Supporting documents i.e. police report must be submitted together with application form to HR Department.

Compassionate leave has to be taken on the day the event occurs or as close as possible to the event.

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4.12 PILGRIMAGE LEAVE

The Company recognizes that Muslim Employees may need to fulfill their obligations which require additional time-off from that approved under the Annual Leave entitlement to perform Haj.

5.12.1 Only applicable to Muslim Employee who has served a minimum of eight (8) years with the Company.

5.12.2 Upon application, the Employee will be granted a maximum of thirty (30) consecutive days paid leave for performing the Haj.

5.12.3 This leave is given once in an Employee's service with the Company and is subject to conditions imposed from time to time.

5.12.4 A letter from Tabung Haji or the organizing agency will be required as supporting document when applying.

5.12.5 Any Employee intending to go on Pilgrimage Leave must apply at least one (1) month before the intended leave period.

4.13 REPLACEMENT LEAVE

Replacement Leave is granted in proportion to the number of overtime hours worked by the eligible Employee and must be taken immediately after the performance of the overtime work if possible, but not later than thirty (30) days, with the prior approval of his immediate superior.

4.13.1 Replacement Leave is only granted for emergency work done for a minimum of four (4) hours of overtime work performed on a rest day or public holiday upon the request and approval of the supervisor or Manager of Department/HRM.

4.13.2 The number of hours of overtime work performed per occasion cannot be split up when applying for the Replacement Leave.

5.0 ALLOWANCE

To be competitive in the market and yet attractive to the Employee to work in the Company, the management has designed several allowances for work done by Employee outside his normal work scope.

Employee shall only entitle to one type of allowance per day of work / assignment performed.

5.1 ASSIGNMENT ALLOWANCE (More than 100 km and more than 1 month)

This allowance is applicable for an Employee who is required to work in other office than his usual work office for a continuous period of **more than 1 month and subject to more than 100 km radius from office**. The amount of the allowance will be determined and specified in his assignment letter.

Personnel who are given the assignment allowance shall not be entitled for other type of allowance of the same nature as the given allowance, such as mileage allowance, local / outstation allowance, etc.

At the discretion of the Company, this assignment allowance may also be given to an Employee for other type of assignment.

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5.2 LOCAL ASSIGNMENT ALLOWANCE

5.2.1 (Less than 100 km and less than 1 month)

When an Employee is required to work in other office / location (*less than 100 km radius*) than his/her usual work place for a period of less than 1 month, the Company shall reimburse the petrol cost (if Company car is used) or mileage together with parking, toll and other associated cost as per original receipt. The calculated distance shall be from his house or office to the new assignment location, whichever is shorter.

5.2.2 (Less than 100 km and more than 1 month)

When an Employee is required to work in other office / location (*less than 100 km radius*) than his usual work place for a period of more than 1 month, the Company will compensate him with the 'Dearness allowance'.

Refer to table 2 & 3 at the end of this handbook.

5.3 OUTSTATION ALLOWANCE (more than 100 km)

This allowance is applicable for an Employee who is required to travel to work in other location than his usual work place for a minimum period of 24 hours (inclusive of traveling time).

	WEST MALAYSIA	EAST MALAYSIA
All Staffs	RM 55 / day	RM 70 / day

This allowance is not applicable when the Employee is at offshore installation, where at this instance, offshore allowance will be given.

This rate is deemed to have included meal allowance. As such, other food / drink bill will not be reimbursed.

On the traveling day, the Company will compensate the Employee with meal allowance, subject to verification of traveling time.

In addition to the above, the Employee is eligible to claim mileage, fuel cost, toll and parking charges as appropriate if they are using own transport or Company car accordingly.

In the event of long term outstation assignment (more than 1 year), the allowance calculation is based on 10% of basic salary or minimum RM1, 000 (whichever higher) or subject to project cost and Management discretion.

During outstation assignment, should the Employee is required to attend meeting or other Company tasks in home based office, Employee are not entitled for any additional outstation allowance.

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5.4 OFFSHORE ALLOWANCE

An Employee who is required to go to any offshore installation and his/her assignment letter does not include the offshore work / assignment, he / she shall be eligible for the offshore allowance as follows:

	BUSINESS TRIPS*
ALLOWANCE	RM70
WORKING HOUR	8 Hours Normal Time + 4 Hours Overtime Maximum

* Site visit / Inspection / meeting / consultation work

If food is not provided at the offshore installation, additional meal allowance will be provided for the day the offshore trip is conducted.

5.5 MILEAGE / FUEL ALLOWANCE

If applicable, an Employee driving his/her personal transport for business travel shall be eligible for mileage allowance / fuel allowance as follows:

Motor car/Motorcycle	RM 0.80 per km (flat rate)
Company's car	Actual petrol to claim with original receipt
Parking charges	Actual cost to claim with original receipt
Toll	*Actual cost to claim with original receipt or toll statement produced by Touch & Go under the Employee's name*

Employees intending to use personal car are to seek for prior approval by the management. Car pool is recommended for travel by more than one (1) person for the same assignment / location.

The total claim shall be lesser or equivalent of an economy return air ticket plus associated public land transport cost. Where the journey / destination are not serviced by any commercial airline, staff shall be paid as per the mileage allowance rate above.

An Employee who is given a fixed mileage allowance shall not be entitled to claim additional mileage allowance for the same purpose.

5.6 LAUNDRY ALLOWANCE

If an Employee is required to be away from home for Company business trip / training and stays in hotel(s) for more than seven (7) consecutive days, he / she shall be entitled for laundry allowance as per actual receipt.

Employees are not allowed to claim laundry allowance if laundry services is provided or paid directly by the client / organizer / sponsor.

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5.7 MEAL ALLOWANCE

Where applicable, the Company shall pay meal allowance to the Employee as per the following breakdown:

DESCRIPTION	ALL STAFFS
Breakfast	RM 10.00
Lunch	RM 15.00
Dinner	RM 15.00

5.8 WINTER CLOTHING ALLOWANCE

An Employee required to perform official work overseas with moderate or cold climate is eligible to claim for winter clothing expenses up to RM1, 000.

In any case that the total claim amount is more or less than the approved amount, the amount payable shall be according to the receipt or up to RM1, 000 whichever is minimal.

This winter clothing expenses is reimbursable once in every three (3) years from the date of the claim.

6.0 EMPLOYEE'S REMUNERATION

6.1 SALARY

The Company's salary policy is to be competitive within the industry, and internally as equitable and consistent as possible. External salary and benefits surveys are conducted periodically by the Human Resource Department to establish competitive rates of salary and benefits for each category. Salary will be credited into the Employee's bank account before the end of the month. On exceptional cases, salary may be paid directly to the Employee by cheque.

6.2 ANNUAL SALARY

All Employees will be regularly appraised based on the accomplishment of tasks and objectives set for the review period, but the formal appraisal exercise will take place once a year. Increment is awarded based on the Employee's job performance.

a. Annual increment will take effect from 1st January of each year provided that the Employee is a permanent staff before or on 31st October of the assessment year.

b. Increment for permanent employee who has not served for a complete one year shall be pro-rated based on his/her joined date.

c. Contract employee shall be appraised for increment after completion of one year of service.

d. The quantum of salary increment shall be decided by the panel of management and shall depend on the Employee's performance as evaluated in the Appraisal Form over the past twelve (12) months and shall be considered after taking into account the annual performance, inflation, scaling and Company's performance. The increment amount awarded shall be considered as final.

e. Annual increment of Employee may be withheld, deferred or stopped, if the work performance of such Employee is below the expectation of the Company.

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6.3 MERIT BONUS / INCENTIVE

Merit bonus / incentive are subject to Management's discretion. The Management will specify method of the payment at the time of award.

7.0 TRAVEL ON COMPANY BUSINESS / TRAINING

7.1 AIR TRAVEL

Employees are entitled for Economy Class unless otherwise authorized in advance. Upgrading is allowed should the cost is reimbursable to Client.

7.2 GROUND TRAVEL

For ground travel, the Company reserves the right to decide the mode of transportation that is comparatively cost saving yet convenient to the staff. Available options are Company car, rental car, staff own transport or public transport.

1. For use of Company car / Employee's own transport, the Employee shall be reimbursed with fuel / mileage allowance accordingly.
2. For rental car, approval from the HRM / MD is required . The Company shall reimburse the car rental charges at cost on presentation of the original car rental receipt / bill.
3. For short / local distance travel, usage of taxi on shared basis is allowed and actual cost shall be reimbursed. Taxi receipt needs to be attached when claiming for reimbursement.

7.3 HOTEL ACCOMMODATION

All hotel booking shall be approved by HRM/MD. Priority shall be given to the Company's approved panel of hotels unless the room rates are reimbursed by client.

The Company shall be responsible for the payment of room charges and associated service charge / tax only.

If the accommodation is not approved by the Company or without Company's knowledge, the Company shall only reimburse the Employee a maximum of **RM 200.00** / night (with original receipt) or **RM 100.00** / night (without receipt).

Employees are not allowed to claim for hotel charges if accommodation is provided or paid directly by the client/organizer/sponsor.

Overstay due to personal reason other than Company request shall not be reimbursed or claimable.

An employee who is required to attend meeting or Company tasks in home based office from their outstation based office is not entitled for hotel accommodation.

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8.0 GENERAL BENEFITS

8.1 MEDICAL BENEFITS

8.1.1. Outpatient / Consultation / Dental / Pre-Post Natal Examination / Maternity Cost / Optical

Employees are entitled for outpatient medical, specialist consultation, dental treatment, pre and post natal examination, maternity cost and optical claims. The claims are subject to the limits set by the Company. The entitlement shall cover the costs of such consultations, medicine and treatment. Pre and Post Natal Examination/Maternity Cost are subject to maximum of 5 surviving children only.

Dental Treatment shall cover dental check-up, scaling, polishing, extractions and fillings at recognized dental clinic only.

Optical claim is limited to purchase of spectacles or contact lenses and must be supported with an eye test reading. Optical entitlement shall exclude plastic surgery, eyes examination, correction surgery and any other cosmetic procedures. (e.g. LASIK)

All treatments must be performed in Malaysia by a registered medical practitioner or appropriate hospital authorities.

Medical benefits shall exclude the following:

- *Over the counter purchase of medicine from pharmacies unless being prescribed by the treating doctor.*
- *Cosmetic treatment and procedures including (but not limited) for acne, scars, hair loss etc.*
- *Alternative therapies such as (but not limited to) Acupuncture, Acupressure, Chiropractic, Osteopathy, Reflexology, Bonesetting, Massage, Aroma Therapy, Herbal, Podiatric, Dietetic consultation and treatment, Traditional Complimentary Medicine etc.*
- *Preventive screening such as (but not limited to) physical examinations, health check-ups, blood test, mammogram, pap smear etc. unless incidental to treatment or diagnosis*
- *Mechanical or chemical contraceptive method of birth control or treatment pertaining to infertility*
- *Inpatient (hospitalization) treatment except for treatment that is related to maternity*

Category	Outpatient Medical
Staff (Single)	RM1,000
Married Staff	RM1,500

Any unutilized entitlement in any calendar year may not be carried forward to the following year and no cash compensation will be given for such.

Employees are required to complete the **Medical Claim Form**. Submissions of claim must be supported by original receipt with the clinic's/medical center's stamp and shall be reviewed and approved by HR Department. Medical expenses must be claimed within seven (7) working days of the date of the expense was incurred or after the Employee returned to office.

The Company reserves the right to request for clarification with any clinics or medical centers if the amount claimed is found to be unreasonable with the treatment received.

The eligible amount for employees who served the Company less than 1 year will be prorated accordingly.

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8.1.2. Hospitalization and Surgical Benefits

Employees, spouse and their dependants are entitled for the following hospitalization and surgical benefits in any hospital. The amount / limits for spouse and dependants shall be based on the following:

CATEGORY	ROOM ENTITLEMENT	Max Limit Per Annum
Director, Manager and Head	RM 180 / day	**RM 30,000**
Senior Executive and Executive	RM 180 / day	**RM 30,000**
Non-Executive	RM 180 / day	**RM 30,000**

Entry Age Limit: 18 – 64 years old.

In the event the treatment expenses exceed the maximum limit or insurance entitlement, the excess cost shall be borne by the Employee.

8.1.2.1 Principle Exclusions:

It is important for the employee to fully aware of all Exclusions in the policy. Some of the major exclusions are:

1. Treatment for congenital abnormalities.
2. Treatment for Pregnancy and other related incidents.
3. Insanity and self-infliction injuries.
4. Intoxication or drug rehabilitation.
5. Plastic or Cosmetic Surgery for beautification purposes.
6. Dental care and treatment for basic hygienic purposes.
7. Prosthetic appliances.
8. Air travel except as fare-paying passenger on a recognized airline operating.
9. Eye test, refractive errors of the eyes or surgical correction of nearsightedness or plastic surgery, and the provision of appliances, including wheelchair and spectacles or contact lens.
10. Psychic disorder.
11. Non-medical services – phone, laundry, television etc.
12. Any circumcision performed due to any reason other than illness or infection.
13. Sickness or injury arising from racing of any kind (except foot racing), hazardous sports such as but no limited to skydiving, water skiing, underwater activities requiring breathing apparatus, winter sports, professional sports and illegal activities.

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14. Any treatment received purely for investigatory purposes not incidental to diagnosis of a covered Disability.
15. Any person who resides outside Malaysia for more than 90 days continuously while the Policy is in force
16. While on active duty in military, naval or air-force of any country or any uniform bodies.
17. Birth Control, infertility, miscarriage or pregnancy
18. Any Congenital disabilities
19. Abuse of Alcohol and /or Drugs
20. AIDS or Aids Related Complex
21. Routine medical checkup
22. Sleep and snoring disorder

8.2 GROUP INSURANCE BENEFITS

8.2.1. Group Term Life (GTL)

This benefit is payable to the Employee or his/her dependant in the event of death from any cause, total and permanent disability. Refer to Table A for GTL insurance coverage.

Please contact Human Resource Department for more details.

8.2.2. Group Personal Accident (GPA)

Under this Group Personal Accident Insurance, the coverage is valid in the event of death or total and partial permanent disability due to the accident.

This is in addition to the Group Term Life Insurance above, which is in the event of death from accidental causes, Employee or his/her dependant will be entitled for both insurances coverage or up to limit that has been agreed by the Company. Refer to Table A for GPA insurance coverage.

Please contact Human Resource Department for more details.

Table A: Group Term Life and Group Personal Accident Insurance Coverage.

	PERMANENT	CONTRACT
Sum Insured	RM30,000	RM30,000

8.3 SOSIAL SECURITY ACT INSURANCE (SOCSO)

The Company and Employees shall contribute to SOCSO at the prevailing rate as per Social Security Act.

The objective of this insurance is to provide compensation to Employees should the Employees are accidentally injured in the course of their work or death arising thereof.

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8.4 EMPLOYEES PROVIDENT FUND

As required under the EPF Ordinance 1951, both Employer and local Employees are required to contribute to EPF at the prevailing rate.

9.0 PERSONAL APPEARANCE & DISCIPLINES

9.1 PUNCTUALITY

All Employees are expected to be punctual in starting work every day and with all other appointments. Employees must observe proper working hours and avoid excessive tardiness, which may result in disciplinary action. If for any reason an Employee is unable to be in the office on time for a particular day, he / she should notify his/her immediate supervisor by telephone as soon as possible. The Supervisor / Heads of Department shall query causes and duration of absence to the Employee. Employees should never assume approval for leave before approval is given even if he / she feel that he / she has a good reason. Such reasons must first be cleared with the Employee's immediate Supervisor / Heads of Department.

9.2 PERSONAL APPEARANCE

It is important that all Employees project a neat, presentable and professional image as this will reflect the Company.

It is the Company's policy that all Employees are to display personal Company ID at all times in the office premises, maintain his/her clothing, hairstyle and jewelry suitable for his/her gender and occasion whilst in office or business trip.

The Manager of Department has the primary responsibility to see that his subordinates comply with these guidelines. When an Employee is not following this guideline, the Head of Department should first try to resolve the problem through an informal discussion with the Employee involved. If the Employee continues to disregard the instruction, the Head of Department concerned may report to HR Department where a written warning may be issued.

9.3 INSUBORDINATION

Refusal of a legitimate order or the use of obscene or otherwise objectionable language to a supervisor or manager is insubordination. It undermines the discipline and authority needed in the workplace. Insubordination may result in disciplinary action, up to and including termination.

Employees should follow any orders given by a manager or supervisor unless the orders are unsafe, may result in death or serious injury, or has no job related connection. Employees may then challenge the orders through dispute resolution procedure. No action will be taken on the Employee if the orders found to be unsafe or a safer course of action is available.

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9.4 DISCIPLINE

All Employees must display good discipline and conduct at all times.

Employee misconduct, excessive lateness, absence, abuse of lunch hours and break time, failure to comply with Company procedures, or other breaches of the Employer / Employee relationship are examples of problems for which disciplinary actions may be warranted.

Table 6 at the end of this handbook is a checklist of twenty-three (23) actions, which are violations of Company rules and regulations. Depending upon circumstances, penalties for these violations of Company rules and regulations may include:

1. Issuance of a show cause letter
2. Issuance of written warning
3. Suspension from work without pay for a period not exceeding seven workings days
4. Withholding of increment for which the Employee is eligible
5. Reduction in position grade and salary (demotion)
6. Termination of employment

10.0 PERSONNEL SERVICES

10.1 PERSONNEL RECORD

HR Department maintains individual Employee information in the form of personal files and individual record sheets for purposes of reference.

To maintain an accurate and updated personal file, Employees are required to inform the HR Department in writing of any changes to personal data i.e. marital status, address, dependant, professional or additional academic qualification or any other related information.

Such information shall be treated as strictly confidential and will not be disclosed to unauthorized personnel without the individual's permission.

HR Department will issue Employee Administration Number which shall be used on all documents / forms where applicable.

10.2 EMERGENCY CONTACT

Employees are required to inform HR Department on changes of information relating to name, address and contact telephone number of next-of-kin or personal representative in cases of an emergency. Employee may self-update the information via LISA.

10.3 EMPLOYEE RELATIONS

When any Employee learns of the death or serious illness of his colleague or a member of his/her colleague immediate family, the information should be given immediately to the Manager of Department and HR Department.

10.4 PERSONAL MATTERS

Employees may approach HR Department directly in any matter of a private or personal nature. HR personnel shall assist the employees wherever possible.

10.5 NOTICE BOARD

Announcements on a wide range of Company matters will be posted on Notice Boards. All Employees should view and pay particular attention to policy or procedural requirement.

All announcement / amendment to procedures etc. shall be deemed to be in effect after it has been posted on the notice board for at least 5 working days. All Employees should regularly visit the notice board and pass any information posted to other employees.

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11.0 CLAIMS

11.1 GENERAL

The following policies provide guidelines for all claims over the expenses incurred by Employee on behalf of the Company.

It is the Employee's responsibility to ensure that claims are reasonable. Project Managers / Managers of Department are responsible for reviewing the expenses to ensure compliance with policy and to disallow any non-refundable expenses.

Claims must be supported by official receipts. The Company does not reimburse personal expenses.

In all cases, expenses must be approved by the appropriate Project Manager or Manager of Department. Expenses incurred by Manager of Department or by Employees who have no immediate supervisor must be approved by the HRM / MD. No Employee may approve his/her own expenses.

The Finance Department is responsible for reviewing expenses for proper approvals and compliance with written policies and for bringing to the attention of the HRM / CEO for any deviation from the policies.

11.2 ADVANCE

Advance on expenses to assist Employee on "out of office" assignments, setting down allowance, rental deposits (for expatriate / regional staff only), etc. shall be requested on an **Advance Requisition Form**.

When an Employee is requested to go on a business trip, he / she shall be entitled to receive an advance which covers approximately his/her expenses, whilst he / she is away. The advance shall be enough to cover the expected hotel and living expenses. If the hotel is pre-paid by the Company, an advance for accommodation shall not be granted.

For application of cash advances, the completed form shall be signed for acknowledgement by the appropriate Head of Department / Project Manager and then forwarded to the Finance Department for processing.

All advances should be cleared within seven (7) days of the journey's completion either through a claim or by payment to the Finance Department. Any outstanding advances shall be deducted fully from the Employee's salary payment.

Finance Department may not approve and process Employees' new advance application until outstanding advances applied from previous application settled and submitted

Cash advances for purchasing of office matters shall also be treated in accordance to this policy.

For group travel, the Employee who has requested for the advance shall submit the expenses claim. Others in the group shall submit the respective allowance claim individually.

Expenses claim to set off the advance must be submitted to Finance Department within seven (7) days upon returning from the travel. Otherwise, salary for the following month may be retained.

Unutilized advance must be returned to Finance Department within the same period.

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11.3 EXPENSES CLAIM

Claimable Expenses are Company approved expenses for project execution, administration matters, contractual clauses or general Company provisions. Employees are to complete the **Project Expenses Claim Form** as per compensation scheme of this handbook or assignment letter.

1. **Local Expenses**

   All expense claims approved by the appropriate Manager of Department / Project Manager in respect of a specific journey must be submitted to Finance Department within seven (7) days after the journey was performed.

2. **Overseas Expenses**

   Same as stated above. The handling of foreign currency is the Employee's own responsibility. Currency exchange rate receipt must be submitted together for actual rate to be used. Otherwise, Finance Department shall base on Bank Negara Malaysia's exchange rate as per travelling date.

3. **Reimbursement of Expense Claims**

   All approved expenses claims shall be paid together with the salary of the following month.

12.0 TERMINATION OF SERVICE

12.1 NOTICE OF TERMINATION

The notice of termination for a permanent Employee will be as follows:

DESCRIPTION	TECHNICAL EXECUTIVE, SENIOR EXECUTIVE & MANAGER	NON TECHNICAL EXECUTIVE & NON EXECUTIVE
Upon confirmation	1 months	1 month

Contract Employee is required to give a minimum one (1) month notice of resignation.

An Employee is required to give written notice of his/her intention to resign from the Company or salary in lieu of notice. The Company will give similar notice if it wishes to terminate the services of an Employee with the exception of those services are terminated for disciplinary action.

However, the Company reserves the right to shorten the resignation notice period for an early exit.

On resignation, termination or dismissal from service, an Employee shall surrender all Company's belongings and to settle all outstanding liabilities, loans and other obligations to the Company.

13.0 PROCEDURES

13.1 PROCEDURE FOR TRAINING REQUEST

Any Employee/Supervisor who feels that his/her subordinates requires training for improving his/her work, shall apply to the Company by filling up a Training Application Form. The form shall approved by the MD.

Employees who are sent for training on Company's expense shall have to sign a bond contract in accordance with the total cost of the training as follows:

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TRAINING COST (RM)	BOND PERIOD
RM 5,000.00 to RM 15,000.00	1 year
RM 15,001.00 to RM 30,000.00	3 years
Above RM 30,000.00	5 years

Should the Employee decided to leave the Company before completing the bond period; he/she shall reimburse the Company the full amount of the training cost.

Employees who have attended **BOSIET** Training on Company's expense shall reimburse the full training cost, if he / she decided to resign before completing 1 year of service from the date of training completion.

13.2 PROCEDURE FOR TRAVEL AND ACCOMMODATION REQUEST

An Employee who is required to travel shall complete the **Air Travel & Accommodation Requisition Form** as detail as possible. Any accommodation or car rental required is to be specified. Errors must be neatly cancelled and initialed by both the claimant and the Manager of Department. All approved forms are to be submitted to the CEO's Secretary for processing as soon as possible.

13.3 PROCEDURE FOR CLAIMING OVERTIME

1. Prior to performing overtime, the Employee is to complete the Overtime Request Form preferably at the beginning of the week. State the project no, brief description of the work to be done and the length of the overtime planned for each day of the week.
2. The Overtime Request Form duly completed is to be signed by the applicant and given to the Head of Department / Project Manager for approval.
3. Only upon receiving the approved Overtime Request Form from the Heads of Department/ Project Manager, the overtime may be performed.
4. Upon performing the overtime, the applicant shall fill-up the actual hours of the overtime performed for each day of the week and submit the completed Overtime Request Form together with the weekly timesheet to the Company via Heads of Department / Project Managers.
5. Heads of Department / Project Managers shall check the submitted Overtime Request Form and enter his signature on the checked column of the Overtime Request Form for each overtime line activities.
6. Errors must be neatly canceled and initialed by both the applicant and the Heads of Department.

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13.4 PROCEDURE FOR CLAIMING EXPENSES

All reimbursable expenses must be claimed within seven (7) working days after the travel was performed or after the Employee returned to the office.

1. Employee claiming for reimbursement of expenses / allowance shall do so by filling up the **Project Expenses Claim Form**. All claims must be supported by original receipts. The Company shall have the right to reject any claims which are not supported by the original receipt.
2. The following supporting documents are required to be submitted together with the claim:
   - Usage of Touch & Go – Touch & Go statement under the name of the claimer
   - Travel by flight – boarding passes
   - Business calls during travel – telephone bill
   - Mileage – Google map of the route taken
3. Details of expenses are to be clearly defined and "Refer to Attachment" is strictly not acceptable. All original receipts are to be pasted on a clean A4 paper particularly those employees involved with reimbursable projects.
4. Prior to forwarding the expense report to Finance Department, it is the responsibility of the claimant to have the expense report approved by the Project Manager / Head of Department.
5. The Finance Executive shall stamp receipt date on the Expense Claim and check the claims against Company policy. Any discrepancy shall be brought to the attention of Finance Manager and / or HR Manager for resolution.
6. Expense Claims shall than be checked and approved by the Finance Manager prior to payment being made in accordance to the Company policy.

14.0 SAFETY

The Company has adopted the following safety policy:

1. The Company places the greatest importance on the safety of its Employees and will do its utmost to provide safe and healthy working conditions at all times.
2. The Company will take all reasonable steps to provide the best possible case in design, construction and maintenance of equipment and facilities including safety equipment.
3. Each level of management shall be familiar with the relevant statutory requirements, codes of practices, Company practices and procedures and shall not permit themselves or their subordinates to perform work unsafely.
4. The Company will instill and promote safety consciousness amongst Employees to prevent accidents and injuries and will strive to educate the Employee that:
   a. Safety is the responsibility of both the Employee as well as the Company.
   b. It is the duty of every Employee to exercise personal responsibility and to do everything within his/her means to prevent injury to himself / herself and to his/her colleagues.
   c. The prevention of accident is a joint effort and co-operation of the Employees and Management as a team helps make the Company the safest and best place to work in.

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15.0 IT RULES AND REGULATIONS

15.1 PERSONAL COMPUTER

Employees are to apply the "Lock Workstation" feature (Ctrl / Alt / Delete and press Enter) where the system allows when leaving a desktop or laptop unattended. Password protected screen saver should be used to protect desktop and laptop from unauthorized access. Laptop computers actively connected to the network or information systems must not be left unattended. Desktop and laptop computers and monitors shall be turned off at the end of each workday.

Computer Invasion of Privacy: An Employee who uses a computer with the intention of examining any employment, medical, salary, credit, or any other financial or personal data relating to any other person with knowledge that such examination is without authority shall be guilty of computer invasion of privacy.

Employees are not allowed to bring their own personal notebook to the office unless an approval is obtained from Department Manager and IT Manager accordingly.

15.2 SOFTWARE APPLICATIONS

Installation of any kind of personal application including programs downloaded from the internet is strictly prohibited. Software must not be installed by the Employee without prior authorization from IT Department. The Company shall treat the installation of unlicensed software by the Employee as a serious breach of the IT Policy.

15.3 EMAILS

The Company email system is core to the business. It should not be used for any purposes not related to the Company.

The Company retains the right to check all emails and shall block them for various reasons. Employees shall be notified if any emails they have sent or received has been stopped by the system. Employee may contact IT Department to have the message checked and released.

Messages may not be released by IT Department for various reasons, including viral, subversive or personal content.

Employees are prohibited from sending Company's confidential information by email without prior approval or without permission.

Limited personal use of email is permitted. Mass forwarding of large files with more than 5MB, objectionable or sexual material, profane language, inappropriate jokes, etc. are not acceptable.

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15.5 DOCUMENT STORAGE

Employees should avoid storing data on their local hard drives. Data so stored may be lost if a problem develops with the PC, and IT Department may not be able to assist in its recovery. Data is advisable to be stored within the file directory (folder) in the server.

Storing personal data into the server and local hard drives is strictly prohibited.

Remote and laptop/notebook PC users must ensure they back up their data regularly. IT Department shall provide advice and assistance.

15.6 ANTI-VIRUS PROTECTION

Employee should scan all media (including floppy disks, zip disks, thumb drive and CDs) for virus before first use. IT Department shall provide assistance and training where required.

15.7 PASSWORDS

Employees should change their passwords when prompted by the system in the case of networked machines or on a regular basis for standalone machines. Employees are responsible for the security of their password which they should not divulge, even to colleagues.

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16.0 THE COMPANY CODES OF CONDUCT & DISCIPLINE

Notwithstanding to Para 9.4, the Company Codes of Conduct and Discipline is laid out as follows:-

16.1 CODES OF CONDUCT

i) It is the Company expectation that an Employee should inculcate the following values:-

a) Strive towards a high standard of professionalism;

b) Give his undivided loyalty and devotion to the Company at the all times and all occasions;

c) Have a strong team spirit;

d) Serve with honesty and integrity, goodwill and courtesy;

e) Display a high sense of cooperativeness and proactive in carrying out his duties;

f) Generate new ways of approaches in the course of his work;

ii) In view of the above values, all Employees shall not:-

a) Subordinate his/her duties to the Company in favor of his/her private interest

b) Conduct himself / herself in such a manner as likely to bring his/her private interests into conflict with his/her duties

c) Conduct himself / herself in any manner as likely to cause a reasonable suspicion that:-

1. He / She has allowed his/her private interests to come into conflict with the duties so as to impair his/her usefulness as an Employee of the Company
2. He / She has used his/her position in the Company to his/her advantage

d) Conduct himself / herself in such a manner as likely to bring the Company in disrepute or bring discredit to the Company

e) Bring or attempt to bring any form of outside influence or pressure to support or advance a claim relating to the Company whether the claim is his/her individual claim, or that of other Employees of the Company.

f) Conduct himself / herself in such a manner as can reasonably be constructed as lacking in efficiency.

g) Be dishonest and conduct himself / herself in such a manner as to lay himself/herself open to suspicion of being dishonest

h) Conduct himself / herself in an irresponsible manner.

i) Conduct himself / herself in such a manner as may be constructed as an act of insubordination.

An Employee who is in breach of the above codes of conduct will render himself / herself liable to disciplinary action.

iii) An Employee shall also strictly:-

a) Observe all statutory laws and regulations

b) Comply with the Company established rules and regulations.

Stern disciplinary action will be taken against any Employee for non-compliance of such laws, rules and regulations.

16.2 MAKING OF PUBLIC STATEMENTS

1. An Employee shall not either orally or in writing or in any form make or circulates any public statement on the policies or decisions of the Company.
2. Except with the permission of the Company, an Employee shall not either orally or in writing or in any other forms make any public statement or comment on any matter relating to the

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work of the department or organization in which he is or was employed or relating to any organization in which the Company has dealing with:

3. Except with the consent of the Company, an Employee shall not either orally or in writing discuss publicly any measures taken by the Company or any official matters taken and carried out by the Employee.

4. In this sub-section "public statement" or "discuss publicly" includes the making of any statement or comment to the press of the public or in the course of any lecture or speech of the broadcasting thereof by sound or vision.

16.3 PARTICIPATION IN THE MEDIA

An Employee shall not participate in any form of advertisement or broadcasting whether in the newspapers, magazines, radio or television or any other media with the exception of the Company publications, without prior written consent from the Company.

An Employee may be allowed to contribute literally or academic articles to any publication i.e., newspapers, magazines or journal, provided he / she gets prior permission from the MD. Any monetary rewards thereby obtained by the Employee should be declared to the Company and the Company will decide whether the Employee may retain such monetary rewards.

16.4 OFFICER TO REPORT

1. If an Employee finds that his/her colleague / subordinate is inefficient or has committed any breach of any of the Terms and Conditions of Service, the Employee shall forthwith report either orally or in writing to his/her immediate superior or Head of Department. If the report is made orally he / she has to subsequently confirm it in writing.

2. An Employee who fails to report shall himself / herself be considered to be guilty of inefficiency and render himself / herself to disciplinary action.

16.5 CONFLICT OF INTEREST

An Employee may not own, either directly or indirectly e.g. through immediate family, share or other forms of beneficial interest (herein collectively called "Equity") in:-

1. Privately owned entities which derive the major part of their income from contractual or other business arrangements with the Company:

2. Privately owned entities which are listed in the Company lists of authorized contractors, even if the entities concerned do not derive most of their income from contractual or other business arrangements with the Company;

3. Privately owned entities supplying materials, equipment, property and / or services to the Company.

Should an Employee become directly or indirectly (e.g. through immediate family) the owner of equity in such entities as have the aforesaid relationship with the Company, then Employee has an immediate obligation to inform the Company in writing the changed circumstances. The Company will then consult with the Employee concerned as the most appropriate way to prevent conflict of interest.

16.6 SECRECY AND LEAKAGE OF INFORMATION

1. An Employee shall not, either during or after his/her employment hereunder, divulge or utilize any confidential information belonging to the Company (including confidential information as to formulae, processes and manufacturing methods, and confidential information as to the business and affairs of the Company) which may have come to his/her knowledge during his/her employment under any previous contract of service with the

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Company and he / she shall, both during and after his/her employment hereunder, take all reasonable precautions to keep all such information secret.

2. Except so far as may be necessary for the purposes of his/her duties hereunder, and Employee shall not, without the consent of the Company retain or make originals or copies of telegrams, letters, maps, reports, drawings, calculations, specification, formula, forms, licenses, agreements or other documents of whatever nature belonging to the Company or notices thereof, nor retain samples of specimens in which the Company may be or may have been interested and which have come into his/her possession by reason of his/her employment hereunder. If on termination of his employment, an Employee is in possession of any originals or copies of telegrams, letters, maps, reports, drawings, calculations, specifications, formulae, forms, licenses, agreements, or other documents of whatever nature belonging to the Company, or any notices thereof or any such samples or specimens as aforesaid, he / she shall deliver the same to the Company without being asked, except so far as consent to retain them has been given to him / her by the Company. Any such consent shall not of itself relieve the Employee from his/her obligations under Para (i) above.

3. The Official Secrets Act 1972 and the Official Secrets (Amendment) Act 1986 prohibits the free access and indiscriminate use of documents containing matter of information which is prejudicial to the safety or interests of Malaysia.

4. Failure to observe the provisions in paragraph (i) or (ii) above may render an Employee is breach of these provisions liable to be charged and prosecuted under the Official Secrets Act 1972.

16.7 LIABILITY OF EMPLOYEES

An Employee may be liable to an extent to be determined by the Company for any Company facilities given or any other action taken by him / her with the approval of the Company. Any payment that has to be made by the Company as a result of the Employee negligence or careless action or as result of action taken without approval shall be recoverable from the Employee by way of deduction from his/her salary or the Company at its discretion may take any other action against such Employee.

16.8 DRESS CODE

The Company requires strict adherence to these guideline:

For Men

The normal office attire shall be either a short or long sleeved shirt with long pants. Executive officers are required to wear ties when attending official meetings with outsiders within or outside the Company. National dress may be worn on Friday. Proper shoes shall be worn with socks.

For Women

The acceptable dress codes for female Employees shall be in accordance with current respectable fashion trends.

Friday Attire

Employees are allowed to wear the following to office on Friday only:

1 Decent Jeans / Denim

2 T-shirt with collar

3 Baju Melayu or any other traditional attire

Wearing sandals / slippers are prohibited in the office areas at all-time except for Muslims for the purpose of prayers ablution.

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16.9 DISCIPLINARY PROCEDURE

1. The Company may impose any one or combination of following disciplinary actions against any Employee in the event of misconduct or inefficiency: -

   i) Issuance of show cause letter

   ii) Giving verbal or written warning

   iii) Suspension from work with or without pay for the period to be determined by the Management.

   iv) Withholding of increment

   iii) Demotion (salary reduction / downgrading of position).

   iv) Termination of employment

   v) Summary dismissal

2. The MD or any executive authorized by him may suspend an Employee before or after an investigation has been carried out and the employee shall be notified accordingly.

3. Notwithstanding to the above, before any disciplinary actions is taken, an Employee shall be given an opportunity to be heard and the Management decision after hearing shall be final.

16.10 GROUND FOR DISCIPLINARY ACTION

Notwithstanding to Para 9.4, any of the above-stated disciplinary action as outlined in Para 16.0 can be taken on the ground or grounds of:-

1. Inefficiency
2. Dishonesty
3. Misconduct
4. Indiscipline
5. Negligence
6. Carelessness
7. Bankruptcy
8. Serious pecuniary embarrassment
9. An act of insubordination
10. Abuse of position of office
11. Conviction of a criminal offence
12. Default against any of the Terms and Conditions of Service
13. Any other act or neglect considered serious

16.11 APPEAL PROCEDURE

An Employee who is aggrieved by the decision in a disciplinary action has the right to appeal to the management (HR Department) to have the decision reviewed within 30 days from the date of the service or posting of the written disciplinary action.

16.12 SMOKING RESTRICTIONS

Smoking is strictly forbidden within the Company premises. Smoking restriction shall include electronic and non-electronic cigarette, cigar and pipe.

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16.13 PERSONAL MAILS USING COMPANY ADDRESS

Employees are not encouraged to use the office addresses for personal mails. Company will not responsible for any missing or misplaced case.

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NOTES TO COMPENSATION SCHEME

1. The maximum offshore workday payable is 12 hours inclusive of traveling hours on the first and last day.
2. Employees traveling in groups on trips or assignments shall share the personnel car or taxi and are entitled to a mileage claim of one (1) car for each group of up to four (4) Employees or the fixed amount divided by the number of Employees traveling together to a maximum of four (4). This claim is only applicable for initial and final travel from base office to / from location of assignment.
3. No allowances and overtime shall be paid for Employees on (safety) training, or seminar courses as this can be considered as an advancement to the staff.
4. Personnel cars should not be used for locations which are adequately serviced by commercial flights. However if approved by the management, the personnel car may be used for such destination. In this case the Employee is only entitled to claim the equivalent economy airfare cost plus the applicable land transportation to the destination.
5. Daily allowance shall not be claimed on the traveling day from office / home to assignment location. On these days, only meal allowance will be compensated, e.g. an assignment of three (3) days and two (2) nights shall be entitled to claim of two (2) outstation allowance plus respectively one (1) day of meal allowance as applicable.
6. Overnight stays are subject to prior management approval except for exceptional circumstances such as cancelled flights etc.

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TABLE 1: COMPENSATION SCHEME FOR BUSINESS TRIPS & ASSIGNMENTS (OVER 100KM RADIUS FROM OFFICE)

		Day Trip			Assignment with Overnight Stay		
Item	**Description**	**Plane**	**Company Car**	**Own Transport**	**Plane**	**Company Car**	**Own Transport**
A	Tickets	By Company	–	–	By Company	-	-
B	Taxi / Public Transport	cost	–	-	cost	-	-
C	Mileage Claim	–	–	Refer Para 5.5	–	-	Refer Para 5.5
D	Petrol / Toll	–	Per Receipt	Per receipt (Toll only)	–	Per receipt	Per receipt (Toll only)
E	Hotel / Accommodation	–	–	–	Refer Para 7.3	Refer Para 7.3	Refer Para 7.3
F	Meals / Refreshment	Refer Para 5.7	Refer Para 5.7	Refer Para 5.7	–	-	-
G	Outstation Allowance	–	–	–	Refer Para 5.3	Refer Para 5.3	Refer Para 5.3
H	Overtime Claim	If Applicable	If Applicable	If Applicable	If Applicable	If Applicable	If Applicable

Note :

1. *Supporting document for toll may be in form of toll receipt or toll transaction statement produced by Touch & Go.*
2. *Toll transaction statement submitted must be under the name of the claimer*
3. *To register with Touch & Go, please visit www.touchngo.com.my*

TABLE 2: LOCAL ASSIGNMENT (Less than 1 month and less than 100km radius)

ITEM NO	DESCRIPTION	WITHIN 25 KM RADIUS	BETWEEN 26 KM AND 50 KM RADIUS	BETWEEN 51 KM AND 100 KM RADIUS
1	Mileage Claim	Yes	Yes	Yes
2	Parking Fees	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt
3	Toll	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt
4	Petrol (Company Car Only)	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt

***Payment will be based on actual day performed.*

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TABLE 3: LOCAL ASSIGNMENT (More than 1 month and less than 100km radius)

ITEM NO	DESCRIPTION	WITHIN 25 KM RADIUS	BETWEEN 26 KM AND 50 KM RADIUS	BETWEEN 51 KM AND 100 KM RADIUS
1	Mileage Claim	N/A	N/A	N/A
2	Parking Fees	N/A	N/A	N/A
3	Toll	N/A	N/A	N/A
4	Petrol	N/A	N/A	N/A
5	Dearness Allowance (RM) / Per Day	10.00	15.00	25.00

***Payment will be calculated based on 30 days or lump sum payment*

TABLE 4: OVERSEAS ALLOWANCE

	ALLOWANCE (RM)	HOTEL RATE (RM)	LODGING ALLOWANCE (RM)
	Per Day (6 hours or more)	Hotel Rates supported by receipt	Rates of lodging allowance if not supported by receipt (per day)
ASEAN	150	300	200
Asia/Middle East	150	300	200
UK / Europe	250	600	300
USA / Canada	200	400	200
Africa	200	400	200

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TABLE 5: VIOLATION OF COMPANY RULES AND REGULATIONS

The following offences are violations of Company rules and will be treated with the penalties as specified in this handbook:

1. Theft or intentional damage of property of Company or other Employee
2. Assault on supervisor or other Employee
3. Threatening or intimidating Employees or supervisors
4. Falsifying Company records
5. Removal of Company records or release of confidential information
6. Using another's badge / pass or permitting another to use your badge / pass to enter Company property
7. Stopping work early, stretching breaks or otherwise wasting time
8. Leaving department or office during working hours without permission
9. Unauthorized absence
10. Excessive absenteeism or lateness
11. Possession of illegal weapons or firearms on Company premises
12. Reporting for work under the influence of alcohol or drugs or drinking alcohol or using illicit drugs on Company premises
13. Smoking in unauthorized areas
14. Gambling on Company property
15. Insubordination
16. Failure to follow instructions or fulfill assigned duties
17. Sleeping in office during working hours
18. Disregarding safety rules
19. Fighting or attempting to provoke a fight on Company premises
20. Deliberately restricting output
21. Failure to maintain product standards
22. Any illegal conduct or activity
23. Sexual Harassment (verbal or gesture or visual or physical or psychological)

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COPY

Ahmad Ridzuan Bin Ahmad Rusli
No. 2, Jalan Panglima Awang 35/126D,
Alam Impian, 40470 Shah Alam,
Selangor

ENE Petro Services Sdn Bhd
Suite 7.03A, North Block,
The Ampwalk,
218 Jalan Ampang,
50450 Kuala Lumpur

October 22nd, 2020

Attention : Mohamad Hafiz Ahmad (Managing Director)

Dear Sir

SUBJECT : **TENDER RESIGNATION LETTER AS BUSINESS DEVELOPMENT MANAGER IN ENE PETRO SERVICES SDN BHD & DIRECTOR/SHAREHOLDER IN ENE TECH VENTURE SDN BHD.**

Refer to our discussion with ENE management dated September 28th, 2020 around 11.00 am at ENE boardroom I have decided and verbally informed my intension to resign from ENE Petro Services Sdn Bhd & Director/Shareholder in ENE Tech Venture Sdn Bhd.

Dated October 5th, 2020 I received copy of Acceptance Resignation Notice from Managing Director by hand and after reading the content I required to consult with my auditor and lawyer before accepting the letter.

I would like to highlight my involvement/ contribution to ENE Group as per below detail.

Farris & Curtiss Wright Business

1. In February 2017 I did present to ENE Managing Director on opportunity to get product agency for oil and gas, power and general industry sector in Malaysia. The Product that I introduce was Farris Engineering Pt Ltd is a Safety Valve manufacturer. Agreed by both parties we decide to establish new company between Mohamad Hafiz and myself namely ENE Tech Venture Sdn Bhd with share distribution 50% : 50%.
   During Registration of ENE Tech Venture Sdn Bhd I have nominated En. Mohd Azlan Bin Ihsan to represent my share holder 50% of company share due to at that time I still working with Transwater API Sdn Bhd.
2. Once registration done we start presenting our company profile ENE Tech Venture Sdn. Bhd to Farris Regional Asia Pacific Sales Director namely Mr. Harsh Ghai and Farris Global Sales Director Mr. Trefor Powell.
3. Dated April 20th, 2017 I and Hafiz fly to Dubai meet up with Mr. Trefor Powell and Mr. Harsh Ghai at Hyatt Regency Dubai Hotel. At that time we got to know Farris management also evaluating Sanggul Emas Sdn Bhd & OGPC Sdn Bhd. After evaluating ENE Tech Venture Sdn Bhd advised by Mr. Trefor Powell will have difficulty due to no audited account to be submitted. As such, on the same time I and Hafiz decided in presence of Mr. Trefor Powell and Mr. Harsh Ghai to resubmit ENE Petro Services Sdn Bhd to be re-evaluated. Agreed by

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myself and Hafiz the profit to be transferred to ENE Tech Venture Sdn. Bhd. before we distribute to both partners.

4. In August 2017, the final huddle was to convince Farris Management that I will resign from Transwater API Sdn Bhd before Farris Engineering decide to appoint ENE Petro Service Sdn Bhd as a local representative In Malaysia. After discussion with ENE Group Managing Director and I finally make a decision to submit my tender of resignation to Transwater API Sdn Bhd in September 2017 and submit copy of the letter to Mr. Trefor Powell and Mr. Harsh Ghai as a evidence of my personal commitment toward the agency.
5. In October 2017 ENE Petro Services Sdn Bhd was appointed by Curtiss Wright Holding company to represent the following product range in Malaysia.
   a) Farris Engineering (Pressure Safety Relief Valve)
   b) Solent & Pratt (Triple & Double Offset Butterfly Valve)
   c) Phonix (Bellows sealed globe/ Corrosive Service and Cryogenic Service)
   d) Strack (High Performance Gate/ Globe/ Check/ Plug Valve and 2/ 3/ 4 way)
   e) Daume (Gate/ Globe & Check Valve)

Stainless Steel Primavalve Majubersama (SPV) Business

1. In May 2017, we have opportunity to supply valve to End User 70 units of valve required. I sent RFQ to SPV for quote.
2. In July 2017, we finally received PO from End User and immediately place the order to SPV.
3. In August 2017, I and Hafiz fly to Jakarta to visit SPV plant and Management to get the agency of SPV product range.
4. In October 2017, ENE Petro finally received payment from End User RM 697,000.00 with profit RM 500,000.00. Further discussion with ENE Group Managing Director the profit of the order to be used as a capital injection to run ENE Tech Venture Business unit under ENE Petro Services Sdn Bhd as a Holding company register to all customer. On top of that I did hand over RM 25,000.00 to Hafiz to open ENE Tech Venture account at Maybank Perkeso Bank.
5. In December 2017, ENE Petro Services Sdn Bhd been appointed by SPV to be local representative in Malaysia.

GWC Business

1. In August 2019, we meet up Mr. Panya PW Tech Pt Ltd in Bangkok Thailand. Introduce both of us to Mr. Davide from GWC Ball Valve manufacturer in Italy. We present about our capability in Malaysia and would like to get GWC to appoint ENE Petro Services Sdn Bhd as a local representative in Malaysia.
2. With assistance from Mr. Panya to convince GWC finally in September 2019 ENE Petro Services Sdn Bhd been Appointed by GWC Italy to be local representative in Malaysia.

Refer to above mention subject I would like to withdraw all the profit been made from 3 business units presented above and Malakoff Business. Include investment to establish ENE service center at Taman Dagang and Company Car Honda CRV I would like to pull out the investment in value of cash.

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the 3business unit & malaket.

I would like to propose 3rd party auditor to evaluate ~~entire company~~ account from 2017 until October 2020. Once total value been identified we shall make official agreement for me to reimbursement all the money. 50% nett profit for all payment received and 40% nett profit for payment did not receive this is to expedite the process reimbursement of my profit-sharing withdrawal.

Once all payment settle I shall return company laptop, name card, access card and company jacket .

Regards,

Ahmad Ridzuan Bin Ahmad Rusli

Cc copy to :

1. Mr. Sean Croxford Farris Global Director
2. Mr. Manoj Gupta Farris Senior Sales Regional Manager
3. Mr. Mustoko Ali SPV Director
4. Ms. Alessandra Pedrini GWC Italia

I, Muhammad Hafiz Ahmad (NRIC No. 790414-14-5349) hereby acknowledge received above mention letter for further action.

ENE Petro Services Sdn. Bhd. 1125108-T

Muhammad Hafiz Ahmad
NRIC : 790414-14-5349
Position : ENE Petro Services Managing Director

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Trezzo Sull Adda, Sept 21 [illegible]

TO: ENE Petro Services Sdn Bhd
7.03A, North Block, The Ampwalk
218 Jalan Ampang, 50450 Kuala Lumpur
Malaysia

ATTN: MUHAMMAD HAFIZ AHMAD

Dear Sir,

SUBJECT: EXCLUSIVE APPOINTMENT LETTER

We, GWC Italia S.p.A., hereby confirm that ENE PETRO SERVICES Sdn Bhd has been appointed as our EXCLUSIVE AGENT specifically in the territory of Malaysia for our products as follows:

No	Product	Petronas New SWEC [illegible]
1	INSTR-VALVES-ACTUATED ON/OFF VALVES	[illegible]
2	VALVES- BALL VALVE LESS THAN 50 MM (NON-FIRESAFE)	[illegible]
3	VALVES – BALL VALVE LESS THAN 50 MM (FIRESAFE/FIRETESTED)	[illegible]
4	VALVES-BALL VALVES- 50 MM AND LARGER (FIRESAFE/FIRETESTED)	[illegible]
5	VALVES – BALL VALVE-GREATER THAN 50 MM OFFSHORE PIPELINE VALVE	[illegible]
6	VALVES -INTERCRAL DOUBLE BLOCK AND BLEED VALVE (NON-INSTR)	[illegible]

GWC Italia S.p.A., will work to provide full support to your company in having the entire product [illegible] duly registered with the end user, sales technical and after the sales service.

The appointment is effective immediately. Upon completion of initial two year term and also upon the completion of each one (1) year extension thereafter, this appointment's term shall be automatically extended without the necessity of any action by either party for an additional one (1) year unless a party elects to terminate this appointment by delivering written notice to the other party no later than [illegible] days.

Yours Sincerely,

Davide Cadamagnani

Sales Manager Asia Pacific

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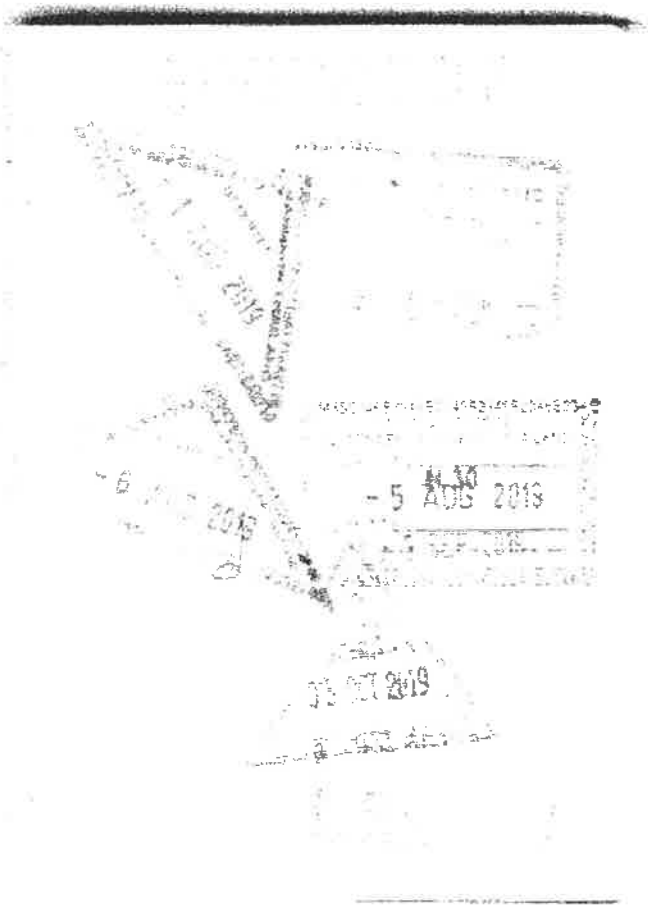

Proofed Entering & Exit Thailand Aug 2019

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PT STAINLESS STEEL PRIMAVALVE MAJUBERSAMA

Nomor : 035/SL/SBU E-EPC/XII/2017   Tangerang, Dec 27 2017

Dear Mr Muhammad Hafiz Ahmad,

ENE Petro Services SdnBhd
7-03A, North Block, The Ampwalk
218 JalanAmpang 50450 Kuala Lumpur
Malaysia

<u>SUBJECT APPOINTMENT LETTER</u>

We, PT. Stainless Steel Primavalve Majubersama hereby confirm that ENE PETRO SERVICES Sdn Bhd. Has been appointed as our EXCLUSIVE AGENT specifically in the territory of Malaysia for our products as follows

<u>No Product Petronas New SWEC Code</u>

1. BALL VALVE LESS THAN 50 MM (NON-FIRESAFE) PV1010100
2. BALL VALVE LESS THAN 50 MM (FIRESAFE / FIRETESTED) PV1010200
3. BALL VALVE 50 MM AND LARGER (FIRESAFE / FIRETESTED) PV1010400
4. GATE VALVE LESS THAN 50 MM PV1020100
5. GATE VALVE 50 MM AND LARGER PV1020200
6. THROUGH CONDUIT - SLAB AND EXPANDABLE TYPE PV1020300
7. SWING TYPE CHECK VALVE PV1030100
8. PISTON / BALL TYPE CHECK VALVE PV1030200
9. DUAL PLATE CHECK VALVE PV1030300
10. GLOBE VALVES LESS THAN 50 MM PV1040100
11. GLOBE VALVES 50 MM AND LARGER PV1040200
12. CONCENTRIC BUTTERFLY VALVES PV1050100
13. DOUBLE OFFSET BUTTERFLY VALVES PV1050200

PT. Stainless Steel Primavalve Majubersama will work to provide full support to your company in having the entireproduct lines duly registered with the end user, sales technical and after the salesservice
The appointment is effective immediately. Upon completion of initial two year term and also upon the completion of each one (1) year extension thereafter, this appointment's term shall be automatically extended without the necessity of any action by either party for an additional one (1) year unless a party elects to terminate this appointment by delivering written notice to the other party no later than thirty (30) days

Best Regards,
PT. STAINLESS STEEL PRIMAVALVE MAJU BERSAMA

PT. STAINLESS STEEL PRIMAVALVE MAJUBERSAMA

<u>Rudy Alfiyansyah</u>
Sales Manager

SPV PRECISION CASTING AND FLOW EQUIPMENT
www.spvmb.com

Head Office, Distribution Center and Main Factory :
Kawasan Industri dan Pergudangan [illegible]
Jln. Mitra Mas No. 02, RT 011, RW 04
Telagasari, Cikupa 15710
Banten INDONESIA
Ph. +62-(0)21-5940637[illegible]
Fax +62-(0)21-5940637[illegible]

Branch Office and Warehouse :
Kompleks Pergudangan [illegible]
Jl. Raya Sedati [illegible]
Kec. Gedangan, Sidoarjo
Ph. +62-(0)31-8[illegible]
Fax +62-(0)31-8[illegible]

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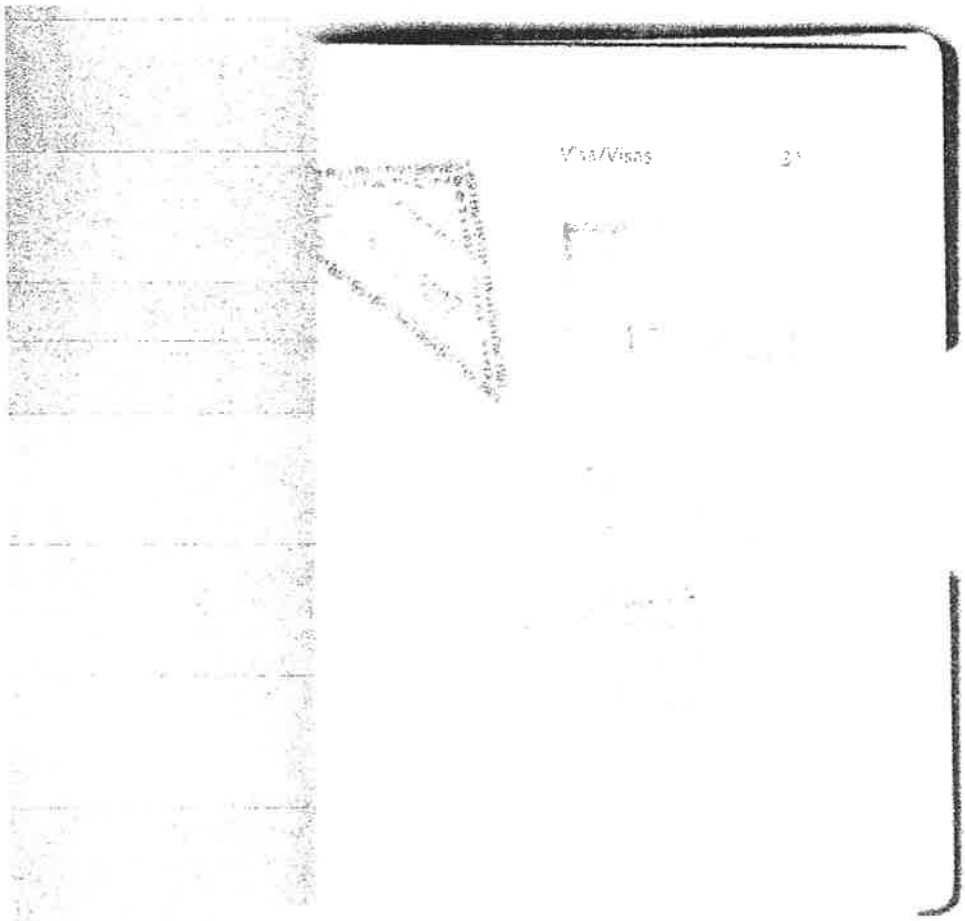

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CURTISS-WRIGHT

Valve Group
Industrial Division
10195 Brecksville Road
Brecksville, OH 44141, USA
T: +1.440.838.7690 F: +1.440.838.7629
www.cw-industrial.com

October 2, 2017

ENE Petro Services Sdn Bhd
7.03A, North Block, TheAmpwalk
218 Jalan Ampang, 50450 Kuala Lumpur
Malaysia

ATTENTION: MUHAMMAD HAFIZ AHMAD

Dear Sir

SUBJECT: EXCLUSIVE APPOINTMENT LETTER

We, Farris Engineering, a Division of Curtiss Wright Flow Control Corporation, hereby confirm that ENE Petro Services Sdn Bhd has been appointed as our EXCLUSIVE AGENT specifically in the territory of Malaysia for our products as follows

No	Product	Petronas New SWEC Code
1	Mechanical Testing Equipment-Localized High Pressure Testing	PM1340100
2	VALVES, Safety Relief Valves – Pilot Operated	PV1060100
3	VALVES, Safety Relief Valves – Conventional	PV1060200
4	Balanced Bellow Safety Relieve Valve	PV1060300

Farris Engineering will work to provide full support to your company in having the entire product lines duly registered with the end user, sales technical and after the sales service

The appointment is effective October 02, 2017. Upon completion of initial two year term and also upon the completion of each one (1) year extension thereafter, this appointment's term shall be automatically extended without the necessity of any action by either party for an additional one (1) year unless a party elects to terminate this appointment by delivering written notice to the other party no later than thirty (30) days

Yours sincerely,

Trefor Powell
V.P., Valve Group Global Sales-Process

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Proofed Exit Dubai April 22, 2017

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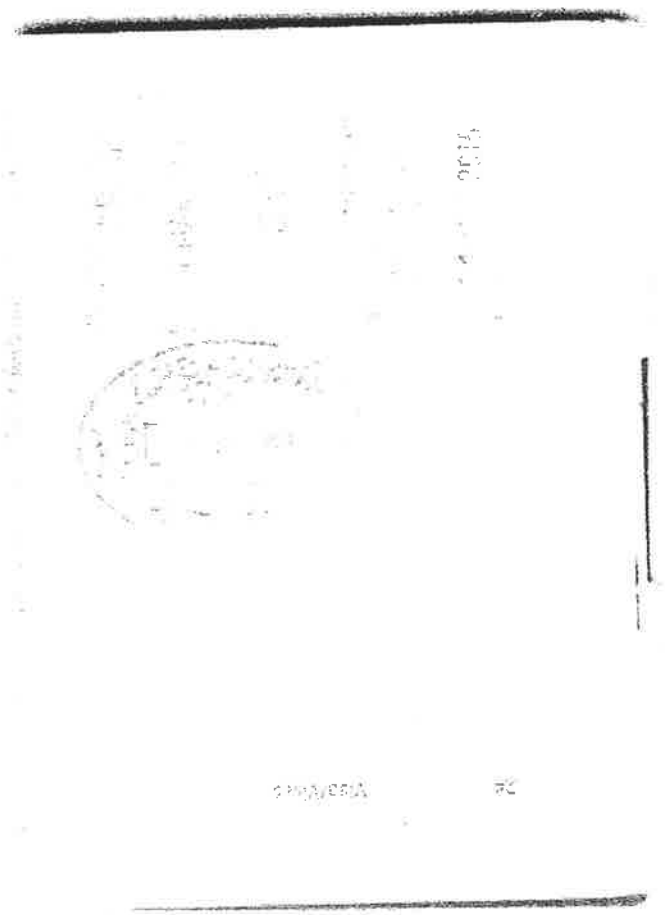

Proofed Entering Duba April 19, 2017

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From: Ahmad Ridzuan <ridz1979@gmail.com>
Sent: Wednesday, November 11, 2020 12:14 AM
To: alvin@capecs.com.my; johnny@proskyservices.com; ridzuan@proskyservices.com
Subject: Fwd: FW: Proposed settlement
Attachments: Settlement ENE 2.pdf

FYI

---------- Forwarded message ---------
From: <sumarno@enegroup.com.my>
Date: Tue, Nov 10, 2020 at 6:50 PM
Subject: FW: Proposed settlement
To: <hafiz@enegroup.com.my>, Mohd Khairul Amini Ramli <admin@aminiramli.com>, <ridz1979@gmail.com>

Include hafiz in the loop

Ir.Sumarno Mohd Degol

Director

ENE Petro Services Sdn Bhd

Suite 7-03A, North Block

The Ampwalk, 218 Jalan Ampang

50450 Kuala Lumpur

Te:+603-2181 3145

Fax:+603-2181 3145

HP:+6012-9735019

www.enegroup.com.my

From: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Sent: Tuesday, 10 November, 2020 6:47 PM
To: Sumarno Mohd Degol <sumarno@enegroup.com.my>; Ahmad Ridzuan <ridz1979@gmail.com>
Subject: Proposed settlement

tached
S/N F5jq9ViFEucz9jZ2qp1QQ
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Please review the following for negotiation purposed

Thanks

--

AMINI RAMLI & CO.

2.03 Glomac Centro

Jalan Teratai PJU 6A,

47400 Petaling Jaya,

Selangor

Tel :+603-7731 4647

Email : admin@aminiramli.com

ENE PETRO SERVICES SDN BHD

PROPOSED SETTLEMENT

	Value (RM)	Value (RM)	Notes
Future Earning November 2020 onwards	2,231,778.38	892,711.35	40% from Net profit
Profit for company from 2017-October 2020	446,600.56	223,300.28	50% distribution
Asset valuation as at to date	297,709.82	148,854.91	50% distribution
BG held by Third Party	62,877.91	31,438.96	50% distribution
Total settlement to be paid		**1,296,305.50**	

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From: Ahmad Ridzuan <ridz1979@gmail.com>
Sent: Friday, November 20, 2020 8:33 PM
To: alvin@capecs.com.my; johnny@proskyservices.com; ridzuan@proskyservices.com
Subject: Fwd: FW: Profit and Loss Statements for the year 2017 - 2020
Attachments: PNL 2017.xlsx

FYI

---------- Forwarded message ---------
From: **Mohd Khairul Amini Ramli** <admin@aminiramli.com>
Date: Thu, Nov 12, 2020 at 9:08 AM
Subject: Re: FW: Profit and Loss Statements for the year 2017 - 2020
To: Hafiz Ahmad <hafiz@enegroup.com.my>
Cc: Ahmad Ridzuan <ridz1979@gmail.com>, sumarno <sumarno@enegroup.com.my>

Details 2017. Thank you.

On Wed, Nov 11, 2020 at 6:32 PM Mohd Khairul Amini Ramli <admin@aminiramli.com> wrote:

> Greetings,
>
> Please find attached for details of each revenue/expense.
>
> On Wed, Nov 11, 2020 at 12:02 AM Hafiz Ahmad <hafiz@enegroup.com.my> wrote:
>
> > resent
> >
> > Regards
> >
> > Hafiz Ahmad
> >
> > Managing Director
> >
> > ENE Petro Services Sdn Bhd.
> >
> > Suite 7.03A, North Block,
> >
> > The Ampwalk 218 Jalan Ampang,
> >
> > 50450, Kuala Lumpur
> >
> > HP :013-9977755 / 012-2891994
> >
> > Tel/Fax : 603-21813145

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

From: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Sent: Tuesday, 10 November, 2020 6:16 PM
To: Sumarno Mohd Degol <sumarno@enegroup.com.my>; hafiz@enegroup.com.my; Ahmad Ridzuan <ridz1979@gmail.com>
Subject: Profit and Loss Statements for the year 2017 - 2020

Greetings,

Attached herewith profit and loss statements and other related ledgers for the year 2017 until 2020 for your reference. Thank you.

Regards,

Farah

--

AMINI RAMLI & CO.

2.03 Glomac Centro

Jalan Teratai PJU 6A,

47400 Petaling Jaya,

Selangor

Tel :+603-7731 4647

Email : admin@aminiramli.com

--

AMINI RAMLI & CO.
2.03 Glomac Centro
Jalan Teratai PJU 6A,
47400 Petaling Jaya,
elangor

S/N F5jq9ViFEucz9jZ2qp1QQ
**Note : Serial number will be used to verify the originality of this document via eFILING portal

Tel :+603-7731 4647
Email : admin@aminiramli.com

--

AMINI RAMLI & CO.
2.03 Glomac Centro
Jalan Teratai PJU 6A,
47400 Petaling Jaya,
Selangor
Tel :+603-7731 4647
Email : admin@aminiramli.com

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ENE PETRO SERVICES SDN BHD
PROFIT AND LOSS
1 June - December 2017

		2017
come		
Revenue General		937,957.24
Sales		
otal Income	**RM**	**937,957.24**
ost of Sales		
Cost of sales		
Freight and delivery - COS		7,616.25
Materials - COS		108,763.23
Purchase		
Quality Assurance		
Subcontractors - COS		379,975.85
otal of Cost of Sales	RM	**496,355.33**
ross Profit	RM	**441,601.91**
penses		
Accounting Fee		0.00
Accommodation		0.00
Bank charges		0.00
CLAIM		98,259.39
Cleaning Expenses		0.00
Commissions and fees		65,608.04
Consultation fee		0.00
CUSTOM DUTY		0.00
Depreciation		0.00
Dues and subscriptions		0.00
Entertainment		0.00
EPF & Socso		0.00
Finance Cost		8,000.00
Food & Beverages		0.00
Gifts & Donations		0.00
GST Expenses		19,490.77
Insurance - General		0.00
LHDN		63,728.63
License and Permits		0.00
Maintenance Fee		0.00
Marketing		0.00
Medical Fee		0.00
Office expenses		0.00
Penalty & Summons		0.00
Petrol, toll & parking		0.00
Postage & Delivery		0.00
Printing & Stationery		0.00
Processing Fee		0.00
Quit Rent		0.00
Refreshment		0.00
Registration Fee		0.00
Rental		0.00
Repairs and Maintenance		0.00
Roadtax		0.00
Salary & Allowances		55,853.47
Secretarial and filing fees S		0.00
ports & Recreation		0.00
Staff Cost		0.00
Advance		0.00
Duit Raya		0.00
Overtime		0.00

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Total Staff Cost	RM	0.00
Stamp Duty		0.00
Stationery and printing		0.00
Subscription		0.00
Tax fee		0.00
Telephone and internet		0.00
Tender		0.00
Tools		0.00
Top Management Salary		0.00
Training		0.00
Transportation		0.00
Travel expenses		0.00
Uniform		0.00
Upkeep of Computer		0.00
Upkeep of MV		0.00
Upkeep of Office		0.00
Water and electricity		0.00
otal Expenses	**RM**	**310,940.30**
ther Income		0.00
Commission		0.00
otal Other Income	**RM**	0.00
ther Expenses		0.00
Dividen		0.00
Other Expenses		0.00
otal Other Expenses	**RM**	0.00
et Earnings	**RM**	**130,661.61**

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Revenue-General								
MALAKOFF								
21.06.2017	Deposit		MALAKOFF POWER BERHAD	PO2018-Upon PO	Revenue-General	MBB564427512039	104,725.26	104,725.26
26.09.2020	Deposit		MALAKOFF POWER BERHAD	PO2018-Completation	Revenue-General	MBB564427512039	593,443.12	698,168.38
26.09.2020	Deposit		MALAKOFF POWER BERHAD	PO2021-Completation	Revenue-General	MBB564427512039	37,979.00	736,147.38
13.11.2017	Deposit		MALAKOFF POWER BERHAD	PO2020-Completation	Revenue-General	MBB564427512039	181,576.86	917,724.24
20.12.2017	Deposit		MALAKOFF POWER BERHAD	PO2019-Completation	Revenue-General	MBB564427512039	20,233.00	937,957.24
Total for Malakoff							937,957.24	
Total for Revenue - General							937,957.24	
TOTAL							937,957.24	

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
GST Expense							
MALAKOFF							
25.09.2017			Payment GST	P2018	Account Payable		15,227.31
2.10.2017			Payment GST	P2019	Account Payable		888.24
2.10.2017			Payment GST	P2020	Account Payable		2,965.05
29.09.2017			Payment GST	P2021	Account Payable		410.17
Total for Malakoff							19,490.77
Total for GST Expense							19,490.77
TOTAL							19,490.77

BALANCE
15,227.31
16,115.55
19,080.60
19,490.77
19,490.77
19,490.77
19,490.77
19,490.77
19,490.77

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
LHDN							
MALAKOFF							
25.09.2017			LHDN FEE	P2018	Account Payable		43,337.59
2.10.2017			LHDN FEE	P2019	Account Payable		1,908.77
2.10.2017			LHDN FEE	P2020	Account Payable		14,684.37
29.09.2017			LHDN FEE	P2021	Account Payable		3,797.90
Total for Malakoff							63,728.63
Total for GST LHDN							63,728.63
TOTAL							63,728.63

BALANCE
43,337.58
45,246.36
59,930.73
63,728.63

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Commission and fees							
MALAKOFF							
25.09.2017			ELIMALA	P2018	Account Payable		15,000.00
25.09.2017			ELIMALA	P2018	Account Payable		2,755.02
25.09.2017			ELIMALA	P2018	Account Payable		35,000.00
25.09.2017			ELIMALA	P2018	Account Payable		353.02
25.09.2017			ELIMALA	P2018	Account Payable		1,000.00
2.10.2017			ELIMALA	P2020	Account Payable		11,500.00
Total for Malakoff							65,608.04
Total for Commission and fees							65,608.04
TOTAL							65,608.04

BALANCE
15,000.00
17,755.02
52,755.02
53,108.04
54,108.04
65,608.04

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Finance Cost							
MALAKOFF							
25.09.2017			Financing Cost	P2018	Account Payable		8,000.00
Total for Malakoff							8,000.00
Total for Finance Cost							8,000.00
TOTAL							8,000.00

BALANCE 8,000.00

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Salary & Allowance							
MALAKOFF							
25.09.2017			PMT COST	P2018	Account Payable		55,853.47
Total for Malakoff							55,853.47
Total for Salary & Allowance							55,853.47
TOTAL							55,853.47

BALANCE
55,853.47
55,853.47
55,853.47
55,853.47
55,853.47
55,853.47
55,853.47
55,853.47
55,853.47

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Materials - COS							
MALAKOFF							
23.06.2017	Bill		TTS VALVE	PO2018-50% DP	Account Payable	MBB564427512039	35,000.00
26.06.2017	Bill		DATARAN ELEKTRA	PO2018-DP	Account Payable	MBB564427512039	6,394.56
10.07.2017	Bill		SPV PAYMENT #1	PO2018-DP	Account Payable	MBB564427512039	13,216.76
12.07.2017	Bill		SPV PAYMENT #2	PO2018-2ND PAYMENT	Account Payable	MBB564427512039	816.42
10.08.2017	Bill		TTS VALVE	P2018-BALANCE PAYMENT	Account Payable	MBB564427512039	35,000.00
11.08.2017	Bill		DATARAN ELEKTRA	PO2018-2ND PAYMENT	Account Payable	MBB564427512039	9,626.56
20.10.2017	Bill		Croft Filters	P2019	Account Payable	MBB564427512039	8,706.93
Total for Malakoff							108,763.23
Total for MATERIALS-COS							108,763.23
TOTAL							108,763.23

BALANCE
35,000.00
41,394.56
54,611.32
55,427.74
90,427.74
100,054.30

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Subcontractors - COS							
MALAKOFF							
17.10.2017			ENE Tech Ventures	P2018	Account Payable	MBB564427512039	201,446.60
12.12.2017			ENE Tech Ventures	P2019	Account Payable	MBB564427512039	5,428.99
24.11.2017			ENE Tech Ventures	P2020	Account Payable	MBB564427512039	140,088.91
30.09.2017			ENE Tech Ventures	P2021	Account Payable	MBB564427512039	33,011.35
Total for Malakoff							379,975.85
Total for Subcontractors - COS							379,975.85
TOTAL							379,975.85

BALANCE
201,446.60
206,875.59
346,964.50
379,975.85

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Freight and delivery - COS							
MALAKOFF							
16.07.2017	Bill		NYS International	P2016	Account Payable	MBB564427512039	933.57
15.07.2017	Bill		CV.Diara Multi Trans	P2016	Account Payable	MBB564427512039	3,641.69
30.11.2017	Bill		CityLink	P2019	Account Payable	MBB564427512039	3,040.99
Total for Malakoff							7,616.25
Total for Freight and delivery - COS							7,616.25
TOTAL							7,616.25

BALANCE
933.57
4,575.26
7,616.25

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1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
Freight and delivery - COS							
MALAKOFF							
16.07.2017	Bill		NYS International	P2018	Account Payable	MBB564427512039	933.57
15.07.2017	Bill		CV.Diara Multi Trans	P2018	Account Payable	MBB564427512039	3,641.69
30.11.2017	Bill		CityLink	P2019	Account Payable	MBB564427512039	3,040.99
Total for Malakoff							7,616.25
Total for Freight and delivery - COS							7,616.25
TOTAL							7,616.25

BALANCE
933.57
4,575.26
7,616.25

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ENE PETRO SERVICES SDN BHD
1125108-T
TRANSACTION REPORT
1 June - December 2017

DATE	TRANSACTION TYPE	NO	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT
CLAIM							
MALAKOFF							
17.08.2017			Air Fare-Ahmad Ridzuan	P2018	Account Payable	MBB564427512039	159.00
17.07.2017			Claim-Ahmad Ridzuan	P2018	Account Payable	MBB564427512039	12,214.32
20.06.2017			Seberang Jaya	P2018	Account Payable	MBB564427512039	432.00
22.06.2017			Air Fare-Hafiz Ahmad	P2018	Account Payable	MBB564427512039	606.00
17.07.2017			Claim-Jakarta hotel/air fare	P2018	Account Payable	MBB564427512039	5,451.97
02.09.2017			Claim-SPV Visit	P2018	Account Payable	MBB564427512039	2,515.35
02.09.2017			Claim-Jakarta Expense	P2018	Account Payable	MBB564427512039	15,646.99
25.09.2017			Claim-Hafiz-Jakarta/Dubai	P2018	Account Payable	MBB564427512039	27,797.95
03.10.2017			Claim-Hafiz-Jakarta	P2018	Account Payable	MBB564427512039	9,055.34
15.12.2017			Project Expense Claim-Hafiz	P2019	Account Payable	MBB564427512039	308.84
15.12.2017			Project Expense Claim-Johnny	P2019	Account Payable	MBB564427512039	836.49
02.10.2017			Hotel/Flight/Farris	P2020	Account Payable	MBB564427512039	5,279.12
16.10.2017			Client	P2020	Account Payable	MBB564427512039	1,112.65
02.10.2017			Jakarta Expense	P2020	Account Payable	MBB564427512039	16,841.37
Total for Malakoff							98,259.39
Total for CLAIM							98,259.39
TOTAL							98,259.39

BALANCE
159.00
12,373.32
12,605.32
13,413.32
18,865.29
21,380.64
37,027.63
64,625.58
73,880.92
74,189.76
75,026.25
80,305.37
81,418.02
98,259.39

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124

Gmail

Ubaidurrahman Abdul Wahid <ubai.wahid@gmail.com>

FW: FW: Profit and Loss Statements for the year 2017 - 2020

6 messages

hafiz ahmad <hafiz@enegroup.com.my> Thu, Oct 14, 2021 at 4:46 PM
To: ubai@fadhlisutris.com, sumarno@enegroup.com.my, abbad_muhammad@yahoo.com

Regards

Hafiz Ahmad

Managing Director

ENE Petro Services Sdn Bhd.

Suite 7.03A, North Block,

The Ampwalk 218 Jalan Ampang,

50450, Kuala Lumpur

HP :013-9977755 / 012-2891994

Tel/Fax : 603-21813145

From: Ahmad Ridzuan [mailto:ridz1979@gmail.com]
Sent: Friday, 20 November, 2020 8:36 PM
To: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Cc: Hafiz Ahmad <hafiz@enegroup.com.my>; sumarno <sumarno@enegroup.com.my>
Subject: Re: FW: Profit and Loss Statements for the year 2017 - 2020

As Salam En. Khairul,

Received your below e-mail with thanks. Currently I'm reviewing the document and will set an appointment for further discussion.

Regards,

Ridzuan

On Thu, Nov 12, 2020 at 9:08 AM Mohd Khairul Amini Ramli <admin@aminiramli.com> wrote:

S/N F5jq9ViFEUcz9jZ2qp1QQ
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125

On Wed, Nov 11, 2020 at 6:32 PM Mohd Khairul Amini Ramli <admin@aminiramli.com> wrote:

Greetings,

Please find attached for details of each revenue/expense.

On Wed, Nov 11, 2020 at 12:02 AM Hafiz Ahmad <hafiz@enegroup.com.my> wrote:

resent

Regards

Hafiz Ahmad

Managing Director

ENE Petro Services Sdn Bhd.

Suite 7.03A, North Block,

The Ampwalk 218 Jalan Ampang,

50450, Kuala Lumpur

HP :013-9977755 / 012-2891994

Tel/Fax : 603-21813145

From: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Sent: Tuesday, 10 November, 2020 6:16 PM
To: Sumarno Mohd Degol <sumarno@enegroup.com.my>; hafiz@enegroup.com.my; Ahmad Ridzuan <ridz1979@gmail.com>
Subject: Profit and Loss Statements for the year 2017 - 2020

Greetings,

Attached herewith profit and loss statements and other related ledgers for the year 2017 until 2020 for your reference. Thank you.

Regards,

Farah

--

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

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AMINI RAMLI & CO.

2.03 Glomac Centro

Jalan Teratai PJU 6A,

47400 Petaling Jaya,

Selangor

Tel :+603-7731 4647

Email : admin@aminiramli.com

--

AMINI RAMLI & CO.

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Jalan Teratai PJU 6A,

47400 Petaling Jaya,

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Tel :+603-7731 4647

Email : admin@aminiramli.com

--

AMINI RAMLI & CO.

2.03 Glomac Centro

Jalan Teratai PJU 6A,

47400 Petaling Jaya,

Selangor

Tel :+603-7731 4647

Email : admin@aminiramli.com

Muhammad Abbad <abbad@fadhlisutris.com> Fri, Oct 15, 2021 at 3:01 AM
To: Ubaidurrahman Abdul Wahid <ubai@fadhlisutris.com>, "Nur Hidayah M. Fadzilah" <nurhidayah@fadhlisutris.com>

Warm Regards,

Muhammad Abbad bin Abdul Wahid

Partner, Corporate and Banking Department

Messrs Fadhli Sutris & Associates | Kuala Lumpur

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Tel: +603 41311557 (General) +603 82110009 (DID), +6019 4708933 (Mobile)

Email: abbad@fadhlisutris.com

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---------- Forwarded message --------
From: **Sumarno Mohd Degol** <sumarno@enegroup.com.my>
Date: Thu, Oct 14, 2021 at 4:29 PM
Subject: FW: Profit and Loss Statements for the year 2017 - 2020
To: Muhammad Abbad <abbad@fadhlisutris.com>

Ir.Sumarno Mohd Degol

Director

ENE Petro Services Sdn Bhd

Suite 7-03A, North Block

The Ampwalk, 218 Jalan Ampang

50450 Kuala Lumpur

Te:+603-2181 3145

Fax:+603-2181 3145

HP:+6012-9735019

www.enegroup.com.my

From: Hafiz Ahmad <hafiz@enegroup.com.my>
Sent: Wednesday, 11 November, 2020 12:01 AM
To: ridz1979@gmail.com
Cc: 'Mohd Khairul Amini Ramli' <admin@aminiramli.com>; 'sumarno' <sumarno@enegroup.com.my>
Subject: FW: Profit and Loss Statements for the year 2017 - 2020

resent

Regards

S/N F5jq9ViFEucz9jZ2qp1QQ
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Managing Director

ENE Petro Services Sdn Bhd.

Suite 7.03A, North Block,

The Ampwalk 218 Jalan Ampang,

50450, Kuala Lumpur

HP :013-9977755 / 012-2891994

Tel/Fax : 603-21813145

From: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Sent: Tuesday, 10 November, 2020 6:25 PM
To: Sumarno Mohd Degol <sumarno@enegroup.com.my>; hafiz@enegroup.com.my; Ahmad Ridzuan <ridz1979@gmail.com>
Subject: Re: Profit and Loss Statements for the year 2017 - 2020

Please find attached for future contract.

On Tue, Nov 10, 2020 at 6:15 PM Mohd Khairul Amini Ramli <admin@aminiramli.com> wrote:

Greetings,

Attached herewith profit and loss statements and other related ledgers for the year 2017 until 2020 for your reference. Thank you.

Regards,

Farah

--

AMINI RAMLI & CO.

2.03 Glomac Centro

Jalan Teratai PJU 6A,

47400 Petaling Jaya,

Selangor

Tel :+603-7731 4647

Email : admin@aminiramli.com

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Future contract.pdf
167K

Muhammad Abbad <abbad@fadhlisutris.com> Fri, Oct 15, 2021 at 3:00 AM
To: Ubaidurrahman Abdul Wahid <ubai@fadhlisutris.com>, "Nur Hidayah M. Fadzilah" <nurhidayah@fadhlisutris.com>

Warm Regards,

Muhammad Abbad bin Abdul Wahid

Partner, Corporate and Banking Department

Messrs Fadhli Sutris & Associates, Kuala Lumpur

Tel: +603 41311557 (General) +603 82110009 (DID), +6019 4708933 (Mobile)

Email: abbad@fadhlisutris.com

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---------- Forwarded message ---------
From: **Sumarno Mohd Degol** <sumarno@enegroup.com.my>
Date: Thu, Oct 14, 2021 at 4:17 PM
Subject: FW: FW: Profit and Loss Statements for the year 2017 - 2020
To: Muhammad Abbad <abbad@fadhlisutris.com>

Ir.Sumarno Mohd Degol

Director

ENE Petro Services Sdn Bhd

Suite 7-03A, North Block

The Ampwalk, 218 Jalan Ampang

50450 Kuala Lumpur

Te:+603-2181 3145

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HP:+6012-9735019

www.enegroup.com.my

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From: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Sent: Wednesday, 11 November, 2020 6:33 PM
To: Hafiz Ahmad <hafiz@enegroup.com.my>
Cc: Ahmad Ridzuan <ridz1979@gmail.com>; sumarno <sumarno@enegroup.com.my>
Subject: Re: FW: Profit and Loss Statements for the year 2017 - 2020

Greetings,

Please find attached for details of each revenue/expense.

On Wed, Nov 11, 2020 at 12:02 AM Hafiz Ahmad <hafiz@enegroup.com.my> wrote:

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[Quoted text hidden]

3 attachments

2020.rar
988K

2018.rar
8367K

2019.rar
8659K

Muhammad Abbad <abbad@fadhlisutris.com> Fri, Oct 15, 2021 at 3:01 AM
To: Ubaidurrahman Abdul Wahid <ubai@fadhlisutris.com>, "Nur Hidayah M. Fadzilah" <nurhidayah@fadhlisutris.com>

Warm Regards,

Muhammad Abbad bin Abdul Wahid

Partner, Corporate and Banking Department

Messrs Fadhli Sutris & Associates, Kuala Lumpur

Tel: +603 41311557 (General) +603 82110009 (DID), +6019 4708933 (Mobile)

Email: abbad@fadhlisutris.com

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--------- Forwarded message ---------
From: <sumarno@enegroup.com.my>
Date: Thu, Oct 14, 2021 at 4:36 PM
Subject: Fwd: Re: FW: Profit and Loss Statements for the year 2017 - 2020
To: <abbad@fadhlisutris.com>

S/N F5jq9ViFEucz9iZ2qp1QQ
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-------- Original Message --------
Subject: Re: FW: Profit and Loss Statements for the year 2017 - 2020
Date: 2020-11-20 20:36
From: Ahmad Ridzuan <ridz1979@gmail.com>
To: Mohd Khairul Amini Ramli <admin@aminiramli.com>
Copy: Hafiz Ahmad <hafiz@enegroup.com.my>, sumarno <sumarno@enegroup.com.my>

As Salam En. Khairul,

Received your below e-mail with thanks. Currently I'm reviewing the document and will set an appointment for further discussion.

Regards,
Ridzuan

On Thu, Nov 12, 2020 at 9:08 AM Mohd Khairul Amini Ramli <admin@aminiramli.com> wrote:

> Details 2017. Thank you.
>
> On Wed, Nov 11, 2020 at 6:32 PM Mohd Khairul Amini Ramli
> <admin@aminiramli.com> wrote:
>
> Greetings,
>
> Please find attached for details of each revenue/expense.
>
> On Wed, Nov 11, 2020 at 12:02 AM Hafiz Ahmad <hafiz@enegroup.com.my>
> wrote:
>
> resent
>
> Regards
>
> Hafiz Ahmad
>
> Managing Director
>
> ENE Petro Services Sdn Bhd.
>
> Suite 7.03A, North Block,
>
> The Ampwalk 218 Jalan Ampang,
>
> 50450, Kuala Lumpur
>
> HP :013-9977755 / 012-2891994 [1]
[Quoted text hidden]
Links:
------
[1] tel:012-2891994

Nur Hidayah M Fadzilah <nurhidayah@fadhlisutris.com> Thu, Mar 31, 2022 at 4:18 PM
To: Ubaidurrahman Abdul Wahid <ubai@fadhlisutris.com>

Best regards,

Nur Hidayah M Fadzilah
Partner
Messrs Fadhli Sutris & Associates
Email: nurhidayah@fadhlisutris.com
Mobile: +6013 3259501
[Quoted text hidden]

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132

3 attachments

- **2020.rar** 988K
- **2018.rar** 8367K
- **2019.rar** 8659K

Muhammad Abbad <abbad_muhammad@yahoo.com> Tue, Jul 12, 2022 at 1:52 PM
Reply-To: Muhammad Abbad <abbad_muhammad@yahoo.com>
To: Ubaidurrahman Abdul Wahid <ubai@fadhlisutris.com>

Sent from Yahoo Mail on Android
[Quoted text hidden]

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Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

Our Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Your Ref :
Date : 19 November 2020

AHMAD RIDZUAN BIN AHMAD RUSLI
(NRIC No. 791221-01-6465)
No. 2, Jalan Panglima Awang 35/126D,
Alam Impian,
40470 Shah Alam,
Selangor.

Dear Sirs,

RE: POINT OF CONTACT FOR ENE PETRO SERVICES SDN. BHD.

We refer to the above wherein we act for Ene Petro Services Sdn. Bhd. ("our Client" or "Company").

2. Kindly be informed that we have been appointed by our Client to be the point of contact for the Company for any negotiation vis a vis any claim to be made by your goodself to the Company, if any, whilst you were under the employment of the Company. Hence, from the date of this writing, please address all correspondences in relation the aforementioned matter to us and all communication made directly to our Client will not be entertained.

3. We can be contacted via our En. Ubaidurrahman (mobile: 013-294 1716 or email: ubai@fadhlisutris.com)

For and on behalf of,

CC
Our Client

S/N F5jq9ViFEucz9jZ2qp1QQ
**Note : Serial number will be used to verify the originality of this document via eFILING portal

CITY-LINK Express

960307203292462

Origin Station	Destination Station
WMJ	KKM

1. From (Shipper)

Contact Person	Phone Number
UBAIDURRAHMAN	0132941716

Shipper / Company Name: UBAIDURRAHMAN

Shipper Address: TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI

City	State / Province
KUALA LUMPUR	KUALA LUMPUR
Country: MY	ZIP / Postal Code: 53300
Shipper's Account No	Shipper's Reference No

2. Shipper's Signature & Authorization

Shipper's Signature	Date (DD/MM/YYYY): 21/11/2020
	Time (HH/MM)

3. Services

Product Group	Product Type
	DOX

4. Shipment Information

No. of Pieces	Gross Weight (kg)
1	0.16

Description of Goods / Harmonized Code

5. Transportation Charges

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Shipper Account If Not Selected*

6. Ship To (Receiver)

Contact Person	Phone Number
AHMAD RIDZUAN BIN AHMAD F	0192265232

Consignee Name: AHMAD RIDZUAN BIN AHMAD RUSLI

Receiver Address (We Do Not Deliver to P.O.Box)
NO 2 JALAN PANGLIMA AWANG 35/126D
ALAM IMPIAN,

City	State / Province
SHAH ALAM	SELANGOR
Country: MY	ZIP / Postal Code: 40470
Receiver's Account No	Receiver's Reference No

7. Receiver's Signature & Authorization

Receiver's Name	
Date (DD/MM/YYYY)	Time (HH/MM)
Receiver's Signature	Receiver's ID No.

Chargeable Weight (kg)	Country Of Manufacture
0.16	
Custom Value	Currency
Sender's VAT/GST No	Receiver's VAT/GST No

8. Duties and Taxes

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Receiver If Not Selected*

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INVOICE

CITY-LINK EXPRESS (M) SDN BHD (64844-A)
WISMA CITY-LINK,NO:3A, JALAN AKITEK U1/22,
SEKSYEN U1,HICOM-GLENMARIE IND. PARK
40150 SHAH ALAM, SELANGOR, MALAYSIA.
TEL: 03-41315934 FAX: 03-41316846
(SST No.: B16-1808-31007280)

Shipper's Name : UBAIDURRAHMAN
Shipper's Address : TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI
53300, KUALA LUMPUR, KUALA LUMPUR, MY
Shipper's Tel :
0132941716

Invoice No : PWMJ002860338
Invoice Date : 21/11/2020
Account No : WMJCASH

No	Consignment	Type	Weight (kg)	Dest	TOS	Amt (RM)	ODA Amt (RM)	Surcharge (RM)	Tax (RM)	Total (R
1	960307203292462	Standard Rated	0.16	KKM	DOX	4.26	0.00	1.53	0.35	6.

Gross Amount	4.
ODA Amount	0.
Surcharge + ESS	1.
Total Amount (exc. SST 6%)	5.
SST 6%	0.
Rounding Adj.	0.
Total Amount (inc. SST 6%)	6.

**ESS = Emergency Situtation Surcharge (15%)*

STANDARD CONDITIONS OF CARRIAGE

1. All and any business undertaken by CITY-LINK EXPRESS (M) SDN BHD (hereinafter referred to as the "Company") is transacted to the conditions hereinafter set out and shall be deemed to be a condition of any agreement between the Company and its Customer or any person acting on behalf of the Customer (hereinafter referred to as the "Shipper").

2. The Company shall not be bound by any agreement purporting to vary these conditions unless such agreement shall be in writing and signed on behalf of the Company by an authorized Officer of the Company. All conditions, warranties, descriptions, representations and agreements not set out in these conditions and whether they be expressed or implied by law, custom or other are hereby expressly excluded. No officer, servant, agent or representative is authorized to make any representations, statements, warranties, conditions, and or agreement not expressly set forth in these conditions and the Company is not in any way bound by any of them or to be taken as to form part of the contract with the Company or collateral to the main contract.

3. The Company will NOT ACCEPT the following items for courier: CASH (in any currency, CASH CHEQUES, REDEEMABLE CASH VOUCHERS, NEGOTIABLE INSTRUMENT (share certificates, bonds, etc.), JEWELLERY/PRECIOUS METALS AND STONES, PERSONAL DOCUMENTS (identity cards, passports, certificates, etc), WORKS OF ART, FIREARMS/EXPLOSIVES, ALL COMBUSTIBLE/INFLAMMABLE PRODUCTS (e.g. paint, turpentine, spirit, etc), LIQUOR, TABACCO, PERISHABLE FOODSTUFF, ANY OTHER DANGEROUS OR HAZARDOUS ITEMS, HANDPHONES and any goods or materials that are prohibited by law, rule or regulation of any country.

4. The Company is not a common carrier. The Company reserves the right to refuse the carriage or transportation of any class of goods at its discretion.

5. Whenever the Company undertakes or arranges transport storage or any other services it shall be authorized to entrust the goods or arrangements to third parties on the latter's contractual conditions. The Shipper shall be bound by such conditions and shall indemnify the Company against any claims arising out of their acceptance.

6. When and to the extent that the Company has contracted as principal for the performance of any services, it undertakes to perform and/or in its own name to procure the performance of those services, and subject to always to the totality of these Conditions accepts liability for loss or damage to goods taken into its charge and the time when the Company is entitled to call upon the Shipper to take delivery of the Goods.

7. The Company shall be deemed to have taken the Shipment (which term shall include all documents or parcels that travel under one waybill or consignment note and which may be carried by air, road or any other carrier) into its charge when they have been received by the Company or have been released or handed over by the Shipper to any person acting on behalf of the Company in accordance with any directions of the Company for the performance of the Shipper's instructions.

8. The Shipper entering into transactions of any kind with the Company expressly warrant that neither the transaction nor the carriage of the Shipment is in breach of any statute regulation or other law relating to postal or courier services and that they are either the owners of or the authorized agents of the owners of any goods or property being the subject matter of the transaction and by entering into the transaction they accept these condition for themselves as well as for all other parties on whose behalf they are acting. Shipper undertakes to indemnify the Company against any damages, costs and expenses resulting from any breach of these warranties.

9. The Shipper and consignees of any Shipment and/or their agents, if any shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs consular and other purposes and they undertake to indemnify the Company against all losses, damages, expenses and fines arising from any inaccuracy or omission even in such inaccuracy or omission is not due to any negligence.

10. The Company shall not be liable under any circumstances for any loss, damage or expense arising from in any connection with marks, weights, numbers, brands, contents, quality or description of any Shipment.

11. For delayed Shipments, the Company's liability shall only be limited up to the sum of the courier charges paid by the Shipper provided that such delay was due to the negligence of the Company, its servants or agents.

12. The Shipper and consignees and/or their agents, if any shall be liable for any duty, tax, impost or outlays of whatsoever nature levied by the authorities of any port or place for or in connection with the goods and for any payments, fines, expenses, loss or damage incurred or sustained by the Company in connection herewith.

13. (a) The Actual Value of a document (which term shall include any item of no commercial value which is transported hereunder) shall be ascertained by reference to its cost of preparation or replacement, reconstruction or reconstitution value at the time and place of shipment whichever is less.

(b) The Actual Value of a parcel (which term shall include any item of commercial value which is transported hereunder) shall be ascertained by reference to its cost of repair or replacement, resale or fair market value at the time and place of shipment, whichever is less. In no event shall such value exceed the original cost of the articles actually paid by the Shipper plus 10%.

14. Any claims brought against the Company with respect to damaged or delayed consignments shall be made in writing within 48 hours. For lost consignments, notification shall be made within 21 days from the date the documents or goods were due to arrive at their destination, failing which the Company shall not be held responsible for any loss or damage arising howsoever.

15. Shipments which cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the consignee may be sold or returned at the Company's option at any time after the expiration of 21 days from the date a notice in writing is sent to the address which the sender gave to the Company on delivery of goods. All charges and expenses arising in connection with the sale or return of the goods shall be paid by the Shipper. Communication from any agent or correspondence of the Company to the effect that the goods cannot be delivered for any reason shall be conclusive evidence of that fact.

16. The packaging of documents and goods is the Shipper's responsibility. The Company will not be responsible for any loss or damage due to inadequ inappropriate packaging.

17. The Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damag person delivering such good to the Company or causing the Company to handle or deal with any such goods shall be liable for all loss or damage ca thereby and shall indemnify the Company against all penalties, claims, damages, costs and expenses arising in connection therewith and the goods destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. Th expression "goods" likely to cause "damage" include goods likely to harbour or encourage vermin or other pests.

18. (a) The Company shall not be liable for or in respect of any loss or damage suffered by the Shipper howsoever caused or arising without limiting the generality of the foregoing, whether caused or arising by reason or on account of loss or damage to goods, mis-delivery or non delivery, delay in delivery, concealed damage, deterioration contamination, evaporation, cancellations or delays in scheduled air flights, in customs procedures or any re-routing or any other means of on-forwarding in or to overseas countries, war, invasion, acts of foreign enemies, hostility (whe war be declared or not), civil war, rebellion, insurrection, military or usurped power, confiscation or under the order of any Government or public a authority and whether or not the same shall be due or alleged to be due to the negligence or any deliberate misconduct or any wrongful act on the the Company, its servants or agents or any other person.

(b) The Company shall not under any circumstances be liable for loss or damage resulting from or attributed to any quotations, statement, representation, or information, whether oral or in writing howsoever, whomsoever or to whomsoever made or given by or on behalf of Company or by any servant, employee or agent of the Company as to the classification of or liability for amount sale or sale of customs duty, excis or other import or tax applicable to any goods or property are such that the Company shall commit any breach of any Act Of Parliament regulation Ordinance or other law made in respect of the same.

19. The liability of the Company for any loss or damage to the Shipment howsoever arising and notwithstanding that the cause of the loss be unexplain shall be limited to the lesser of:
(1) RM200.00 or

(2) The amount of loss or damage to a document or parcel actually sustained; or

(3) The Actual Value of the document or parcel as determined under Clause 13 (a) and (b) thereof, without regard to its commercial utility or special to the Shipper.

20. The Company shall not be liable, in any event, for any consequential or special damages or other indirect loss, howsoever arising, whether or not the Company had knowledge that such damage might be incurred, including, but not limited to, loss of income profits, interest, utility or loss of market.

21. The defences and limits of liability provided by these Conditions shall apply in any action against the Company whether such action be founded in co or tort or in any other form.

22. The contract between the Company and the Shipper shall be governed by local law and the parties submit to the exclusive jurisdiction of the local co competent to deal with disputes arising out of this contract.

23 All goods and documents relating to the goods shall be subject to a particular and general lien and right of detention for monies due either in respect such goods or any particular or general balance or other monies due from the sender owner or consignee and their agents to the Company, if any mo due to the Company is not paid within the terms set out and agreed or within 14 days after the notice has been given to the person from whom the is due that such goods are being detained and same may be sold by auction or otherwise at the sole discretion of the Company and at the expense of a person for fees applied or towards satisfaction of such indebtedness. The sender owner or consignee and their agents hereby waives any cross clai payment due.

24. The Company's charges are calculated according to the higher of actual or volumetric weight and the shipment may be re-weighed and re-measured the company to confirm this calculation. For the purposes of ascertaining the volumetric weight of any parcel, the following formula applies :-
Length x Width x Height (cm) / 5000 = Volumetric weight (Kgs)

25. The Company's shipment charges do not include insurance cover for Shipments in transit and the Shippers will arrange insure for their Shipment for t intended transit. The insurance policy shall include a waiver of subrogation clause for the benefit of the Company.

26 City-link shall not provide any Proof of Delivery for this shipment.

S/N F5jq9ViFEucz9jZ2qp1QQ
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Rohamat & Ling
ADVOCATES & SOLICITORS
PEGUAMBELA & PEGUAMCARA

(Formerly known as Tee, Liew & Co.)
1009, Level 10, Menara PJ, Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
Tel: 03-7932 5115 / 03-7932 5050
Fax: 03-7932 5151
Email: info.kl@r-ling.com

Partners
Alan Ling Sie Kiong — LL.B (Hons) Sheffield, CLP
Bernard Tee Shyong Jiunn — LL.B (Hons) Sheffield, CLP
Lai Jin Shawn — LL.B (Hons) Sheffield, CLP
Liew HongYi — LL.B (Hons) Sheffield, CLP
Mark Wong Kah Kit — LL.B (Hons) Sheffield, CLP
Rohamat Kamal Bin Mustafa — LL.B (Hons) IIUM

Legal Assistants
Lau Seow Mui — LL.B (Hons) Manchester, CLP
Mavis Tan May Yeh — LL.B (Hons) London, CLP

Your Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Our Ref : LIT/2020 1114_ARAR
Date : 21st December 2020

Messrs Fadhli Sutris & Associates
No.8-2, Jalan Wangsa Setia 3,
Wangsa Melawati,
53300 Kuala Lumpur.

03-413[illegible]

By Email / Hand
(law@fadhlisutris.com)

RECEIVED
23 DEC 2020
MESSRS. FADHLI SUTRIS & ASSOCIATES
ADVOCATES & SOLICITORS

Dear Sir/Madam,

We acknowledge receipt of the above documents/letter/cheque
Dated:

Re: Notification of Appointment

In the Negotiation between Ahamd Ridzuan Bin Ahmad Rusli & ENE Petro Services Sdn Bhd

We refer to the above matter wherein we act for En Ahmad Ridzuan Bin Ahmad Rusli ("Client").

Kindly note that we have been recently appointed by our Client to represent him in the negotiation with your client, ENE Petro Services Sdn Bhd, including but not limited to the filing of any legal suit against your client.

As such, please address all communications in relation to this matter directly to us.

For urgent matters, kindly contact our Mr Mark at 03-7932 5115 or email at mark@r-ling.com.

Thank you.

Yours faithfully,
Messrs Rohamat & Ling

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Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

Our Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Your Ref : **LIT/2020 114_ARAR**
Date : 30.12.2020

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

BY EMAIL/FAX/COURIER

Attn: Mr. Mark Wong Kah Kit

Dear Sirs,

Re: Offer to Acquire Shares Owned by ENE Petro Services Sdn Bhd in ENE Tech Ventures Sdn Bhd

We refer to the above wherein we are acting on behalf of ENE Petro Services Sdn Bhd ("our Client")

Our Client is pleased to offer your client namely, En. Ahmad Ridzuan Ahmad Rusli, to acquire all its ordinary shares ("Shares") issued in ENE Tech Ventures Sdn Bhd ("Company") subject to the following terms and conditions:

1.	Purchase Price	Nominal sum amounting to RM10.00
2.	Completion Date	On or before 8 January 2021
3.	Name of the Company	The name of the Company shall be changed and your client shall not be entitled to use any name, logo and/or brand associated to "ENE"
4.	Costs	All costs associated with the transfer shall be borne by your client including the change of name and the stamp duty and registration fee in relation to the transfer of the Shares
5.	Directorship	En. Muhammad Hafiz bin Ahmad ("MHA") shall resign from his position as the director of the Company upon the Shares have been transferred. Should it is required in the Constitution of the Company to have a minimum number of two (2) directors, your client shall nominate a new director as a replacement for MHA.
6.	Indemnity	Your Client shall indemnify our Client and MHA for any losses suffered by our Client and/or MHA, whether direct or indirect, pursuant to the transfer of the Shares
7.	Benefits	Your client shall be entitled to all the benefits, obligations and the liabilities in relation to the Company

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8.	Other Terms	The parties shall enter into a share transfer agreement to incorporate all other terms that our Client deems necessary

Please note that the offer shall only be valid for three (3) business days from the date hereof.

We shall await your client's response on the offer stated above.

For and on behalf of
MESSRS FADHLI SUTRIS & ASSOCIATES

CITY-LINK Express

139

960307203379174

Origin Station	Destination Station
WMJ	TPM

1. From (Shipper)

Contact Person	Phone Number
UBAIDURRAHMAN	0132941716

Shipper / Company Name: UBAIDURRAHMAN

Shipper Address: TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI

City	State / Province
KUALA LUMPUR	KUALA LUMPUR
Country: MY	ZIP / Postal Code: 53300
Shipper's Account No	Shipper's Reference No

2. Shipper's Signature & Authorization

Shipper's Signature	Date (DD/MM/YYYY)	Time (HH/MM)
	31/12/2020	

3. Services

Product Group	Product Type
	DOX

4. Shipment Information

No. of Pieces	Gross Weight (kg)
1	0.10

Description of Goods / Harmonized Code:

5. Transportation Charges

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Shipper Account If Not Selected*

6. Ship To (Receiver)

Contact Person	Phone Number
MR MARK WONG KAH KIT	03793325115

Consignee Name: MESSRS. ROHAMAT & LING

Receiver Address (We Do Not Deliver to P.O.Box):
ADVOCATES AND SOLUCITORS
1009, LEVEL 10, MENARA PJ., PUSAT PERDAGANGAN AMCORP
NO. 18, JALAN PERSIARAN BARAT

City	State / Province
PETALING JAYA	SELANGOR
Country: MY	ZIP / Postal Code: 46050
Receiver's Account No	Receiver's Reference No

7. Receiver's Signature & Authorization

Receiver's Name	
Date (DD/MM/YYYY)	Time (HH/MM)
Receiver's Signature	Receiver's ID No.

Chargeable Weight (kg)	Country Of Manufacture
0.10	
Custom Value	Currency
Sender's VAT/GST No	Receiver's VAT/GST No

8. Duties and Taxes

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Receiver If Not Selected*

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INVOICE

140

CITY-LINK EXPRESS (M) SDN BHD (64844-A)
WISMA CITY-LINK,NO:3A, JALAN AKITEK U1/22,
SEKSYEN U1,HICOM-GLENMARIE IND. PARK
40150 SHAH ALAM, SELANGOR, MALAYSIA.
TEL: 03-41315934 FAX: 03-41316846
(SST No.: B16-1808-31007280)

Shipper's Name : UBAIDURRAHMAN
Shipper's Address : TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI
53300, KUALA LUMPUR, KUALA LUMPUR, MY

Shipper's Tel : 0132941716

Invoice No : PWMJ002933860
Invoice Date : 31/12/2020
Account No : WMJCASH

No	Consignment	Type	Weight (kg)	Dest	TOS	Amt (RM)	ODA Amt (RM)	Surcharge (RM)	Tax (RM)	Total (RM
1	960307203379174	Standard Rated	0.10	TPM	DOX	4.26	0.00	1.53	0.35	6.1

Gross Amount	4.2
ODA Amount	0.0
Surcharge + ESS	1.5
Total Amount (exc. SST 6%)	5.7
SST 6%	0.3
Rounding Adj.	0.0
Total Amount (inc. SST 6%)	6.

ESS = Emergency Situtation Surcharge (15%)

STANDARD CONDITIONS OF CARRIAGE

1. All and any business undertaken by CITY- LINK EXPRESS (M) SDN BHD (hereinafter referred to as the "Company") is transacted to the conditions hereinafter set out and shall be deemed to be a condition of any agreement between the Company and its Customer or any person acting on behalf of the Customer (hereinafter referred to as the "Shipper")

2. The Company shall not be bound by any agreement purporting to vary these conditions unless such agreement shall be in writing and signed on behalf of the Company by an authorized Officer of the Company. All conditions, warranties, descriptions, representations and agreements not set out in these conditions and whether they be expressed or implied by law, custom or other are hereby expressly excluded. No officer, servant, agent or representative is authorized to make any representations, statements, warranties, conditions, and or agreement not expressly set forth in these conditions and the Company is not in any way bound by any of them or to be taken as to form part of the contract with the Company or collateral to the main contract.

3. The Company will NOT ACCEPT the following items for courier: CASH (in any currency, CASH CHEQUES, REDEEMABLE CASH VOUCHERS, NEGOTIABLE INSTRUMENT (share certificates, bonds, etc.) , JEWELLERY/PRECIOUS METALS AND STONES, PERSONAL DOCUMENTS (identity cards, passports, certificates, etc) , WORKS OF ART, FIREARMS/EXPLOSIVES, ALL COMBUSTIBLE/INFLAMMABLE PRODUCTS (e.g. paint, turpentine, spirit, etc) , LIQUOR, TABACCO, PERISHABLE FOODSTUFF, ANY OTHER DANGEROUS OR HAZARDOUS ITEMS, HANDPHONES and any goods or materials that are prohibited by law, rule or regulation of any country.

4. The Company is not a common carrier. The Company reserves the right to refuse the carriage or transportation of any class of goods at its discretion.

5. Whenever the Company undertakes or arranges transport storage or any other services it shall be authorized to entrust the goods or arrangements to third parties on the latter's contractual conditions. The Shipper shall be bound by such conditions and shall indemnify the Company against any claims arising out of their acceptance.

6. When and to the extent that the Company has contracted as principal for the performance of any services, it undertakes to perform and/or in its own name to procure the performance of those services, and subject to always to the totality of these Conditions accepts liability for loss or damage to goods taken into its charge and the time when the Company is entitled to call upon the Shipper to take delivery of the Goods.

7. The Company shall be deemed to have taken the Shipment [which term shall include all documents or parcels that travel under one waybill or consignment note and which may be carried by air, road or any other carrier] into its charge when they have been received by the Company or have been released or handed over by the Shipper to any person acting on behalf of the Company in accordance with any directions of the Company for the performance of the Shipper's instructions.

8. The Shipper entering into transactions of any kind with the Company expressly warrant that neither the transaction nor the carriage of the Shipment is in breach of any statute regulation or other law relating to postal or courier services and that they are either the owners of or the authorized agents of the owners of any goods or property being the subject matter of the transaction and by entering into the transaction they accept these conditions for themselves as well as for all other parties on whose behalf they are acting. Shipper undertakes to indemnify the Company against any damages, costs and expenses resulting from any breach of these warranties.

9. The Shipper and consignees of any Shipment and/or their agents, if any shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs consular and other purposes and they undertake to indemnify the Company against all losses, damages, expenses and fines arising from any inaccuracy or omission even in such inaccuracy or omission is not due to any negligence.

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13. (a) The Actual Value of a document (which term shall include any item of no commercial value which is transported hereunder) shall be ascertained by reference to its cost of preparation or replacement, reconstruction or reconstitution value at the time and place of shipment whichever is less.

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16. The packaging of documents and goods is the Shipper's responsibility. The Company will not be responsible for any loss or damage due to inadequ inappropriate packaging.

17. The Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause dame person delivering such good to the Company or causing the Company to handle or deal with any such goods shall be liable for all loss or damage c thereby and shall indemnify the Company against all penalties, claims, damages, costs and expenses arising in connection therewith and the good destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. T expression "goods" likely to cause "damage" include goods likely to harbour or encourage vermin or other pests.

18. (a) The Company shall not be liable for or in respect of any loss or damage suffered by the Shipper howsoever caused or arising without limiting the generality of the foregoing, whether caused or arising by reason or on account of loss or damage to goods, mis-delivery or no delivery, delay in delivery, concealed damage, deterioration contamination, evaporation, cancellations or delays in scheduled air flights, in custor procedures or any re-mailing or any other means of on-forwarding in or to overseas countries, war, invasion, acts of foreign enemies, hostility (w war be declared or not), civil war, rebellion, insurrection, military or usurped power, confiscation or under the order of any Government or public authority and whether or not the same shall be due or alleged to be due to the negligence or any deliberate misconduct or any wrongful act on th the Company, its servants or agents or any other person.

(b) The Company shall not under any circumstances be liable for loss or damage resulting from or attributed to any quotation statement, representation, or information, whether oral or in writing howsoever, whosesoever or to whomsoever made or given by or on behalf Company or by any servant, employee or agent of the Company as to the classification of or liability for amount scale or rate of customs duty, ex or other import or tax applicable to any goods or property are such that the Company shall commit any breach of any Act Of Parliament regulati Ordinance or other law made in respect of the same.

19. The liability of the Company for any loss or damage to the Shipment howsoever arising and notwithstanding that the cause of the loss be unexpl shall be limited to the lesser of:
(1) RM200.00 or

(2) The amount of loss or damage to a document or parcel actually sustained; or

(3) The Actual Value of the document or parcel as determined under Clause 13 (a) and (b) hereof, without regard to its commercial utility or spe to the Shipper.

20. The Company shall not be liable, in any event, for any consequential or special damages or other indirect loss, howsoever arising, whether or n Company had knowledge that such damage might be incurred, including, but not limited to, loss of income profits, interest, utility or loss of ma

21. The defences and limits of liability provided by these Conditions shall apply in any action against the Company whether such action be founded or tort or in any other form.

22. The contract between the Company and the Shipper shall be governed by local law and the parties submit to the exclusive jurisdiction of the lo competent to deal with disputes arising out of this contract.

23. All goods and documents relating to the goods shall be subject to a particular and general lien and right of detention for monies due either in such goods or any particular or general balance or other monies due from the sender owner or consignee and their agents to the Company. If due to the Company is not paid within the terms set out and agreed or within 14 days after the notice has been given to the person from whom is due that such goods are being detained and same may be sold by auction or otherwise at the sole discretion of the Company and at the expe a person for fees applied or towards satisfaction of such indebtedness. The sender owner or consignee and their agents hereby waives any cla payment due.

24. The Company's charges are calculated according to the higher of actual or volumetric weight and the shipment may be re-weighed and re-mea the company to confirm this calculation. For the purposes of ascertaining the volumetric weight of any parcel, the following formula applies :-
Length x Width x Height (cm) / 5000 = Volumetric Weight (Kgs)

25. The Company's shipment charges do not include insurance cover for Shipments in transit and the Shippers will arrange insura for their Shipm intended transit. The insurance policy shall include a waiver of subrogation clause for the benefit of the Company.

26 City-link shall not provide any Proof of Delivery for this shipment.

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

Our Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Your Ref : **LIT/2020 114_ARAR**
Date : 08 January 2021

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

BY EMAIL/FAX/COURIER

Attn: Mr. Mark Wong Kah Kit

Dear Sirs,

Re: CLOSING DOWN ENE TECH VENTURES SDN BHD ("Company")

We refer to the above and to our letter issued to you on 30 December 2020 ("Letter") wherein we are acting on behalf of ENE Petro Services Sdn Bhd ("our Client").

Up todate, we have not received any response from your side nor your client hence we deem that your client is not interested in our Client's offer stated in the Letter. As such, our Client proposes to close down the Company and all parties shall be respectively responsible for any obligation/liabilities under any relevant laws.

Should we have received no response from your side or your client within 3 business days from the date of this letter, we shall deem that you are agreeable with the abovesaid proposal.

For and on behalf of
MESSRS FADHLI SUTRIS & ASSOCIATES

No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur
Tel: 603-4143 1557 Fax: 603-4143 8824 Email: fadhli@fsbizlaw.com

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142

Rohamat & Ling
ADVOCATES & SOLICITORS
PEGUAMBELA & PEGUAMCARA

(Formerly known as Tee, Liew & Co.)
1009, Level 10, Menara PJ, Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
Tel: 03-7932 5115 / 03-7932 5050
Fax: 03-7932 5151
Email: info.kl@r-ling.com

Partners
Alan Ling Sie Kiong LL.B (Hons) Sheffield, CLP
Bernard Tee Shyong Jiunn LL.B (Hons) Sheffield, CLP
Lai Jin Shawn LL.B (Hons) Sheffield, CLP
Liew HongYi LL.B (Hons) Sheffield, CLP
Mark Wong Kah Kit LL.B (Hons) Sheffield, CLP
Rohamat Kamal Bin Mustafa LL.B (Hons) IIUM

Legal Assistants
Lau Seow Mui LL.B (Hons) Manchester, CLP
Mavis Tan May Yeh LL.B (Hons) London, CLP

Your Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Our Ref : LIT/2020 1114_ARAR
Date : 12 January 2021

Messrs Fadhli Sutris & Associates
No.8-2, Jalan Wangsa Setia 3,
Wangsa Melawati,
53300 Kuala Lumpur.

By Email
(law@fadhlisutris.com)

Dear Sir,

Re: CLOSING DOWN OF ENE TECH VENTURES SDN BHD ("Company")

We refer to the above matter and your letter to us dated 8th January 2021.

Note that our client is only agreeable to close down the Company if your client, ENE Petro Services Sdn Bhd, is agreeable to enter into a formal settlement agreement ie. 50% of the nett profits for all payments received together with 40% of nett profits not received, as of date of settlement agreement, brought in by and/or in relation to our client.

Further, our client wishes to put on record that such arrangement for settlement has been agreed by parties hereto on or about 22nd October 2020.

In the event, if your client is not agreeable kindly confirm if you have your client's instruction to accept legal service.

Thank you.

Yours faithfully,
Messrs Rohamat & Ling

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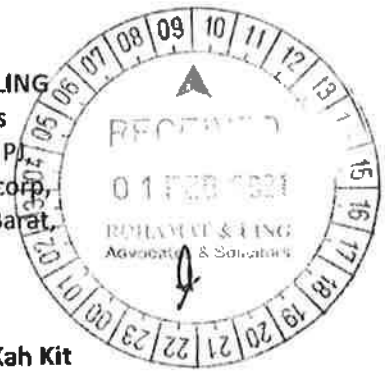
Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

Our Ref : **FSA.R.ENEPETRO.0.15.20.NH.MA.ub**
Your Ref : LIT/2020 114_ARAR
Date : 26 January 2021



BY EMAIL/FAX/COURIER

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

Attn: Mr. Mark Wong Kah Kit

Dear Sirs,

Re: Offer to Acquire Shares Owned by ENE Petro Services Sdn Bhd in ENE Tech Ventures Sdn Bhd

We refer to the above, to our letters dated 30.12.2020 and 08.01.2021, to your letter dated 12.01.2021.

Kindly note that the understanding between ENE Petro Services Sdn Bhd ("our Client") and Ahmad Ridzuan Bin Ahmad Rusli ("your client") has been revoked due to your client's failure to fulfill, and breaching, the understanding made by both parties and the counter offer negotiated by your client. As such, our Client shall not be under any obligation whatsoever towards your client.

However, we are instructed by our Client to still listen to your client's new proposal on the salient terms and conditions rather than a very general and vague term previously provided.

Notwithstanding the above, our Client would like to treat the above issue separately from the offer of shares in ENE Tech Ventures Sdn Bhd ("Company"). Since there is a deadlock situation in the Company and both your client and our Client are incurring costs to maintain the Company, the best way to move forward is to, as what has been previously proposed, close down the Company. Should we have received no response from your side within three (3) days from the date of this writing, we shall deem that your client is agreeable with the term of closing down the Company and we shall extend this matter to the Company's company secretary for their further action.

For and on behalf of
MESSRS FADHLI SUTRIS & ASSOCIATES

No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur
Tel: 603 4131 1557 Fax: 603 4141 8824 Email: law@fadhlisutris.com

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**Note : Serial number will be used to verify the originality of this document via eFILING portal

Rohamat & Ling
ADVOCATES & SOLICITORS
PEGUAMBELA & PEGUAMCARA

(Formerly known as Tee, Liew & Co.)
1009, Level 10, Menara PJ, Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
Tel: 03-7932 5115 / 03-7932 5050
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Rohamat Kamal Bin Mustafa LL.B (Hons) IIUM

Legal Assistants
Lau Seow Mui LL.B (Hons) Manchester, CLP
Mavis Tan May Yeh LL.B (Hons) London, CLP

Your Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Our Ref : LIT/2020 1114_ARAR
Date : 3 February 2021

Messrs Fadhli Sutris & Associates
No.8-2, Jalan Wangsa Setia 3,
Wangsa Melawati,
53300 Kuala Lumpur.

By Email
(law@fadhlisutris.com)

Dear Sir,

Re: CLOSING DOWN OF ENE TECH VENTURES SDN BHD ("Company")

We refer to the above matter and your letter to us dated 26h January 2021 which we received on 1st February 2021.

We are instructed by our client as follows:-

1) That our client is NOT agreeable to close down of the Company until and unless all monies owing to our client has been settled in full;
2) That your client DO NOT have the authority to "close down" the Company unilaterally;
3) That your client has agreed to pay Ringgit Malaysia Four Million Five Hundred Thousand (RM4,500,000.00) only to our client of which only Ringgit Malaysia Nine Hundred Eighty-Nine Thousand (RM989,000.00) only has been paid to our client;
4) That your client ***still owes*** our client a sum of **Ringgit Malaysia Three Million Five Hundred Eleven Thousand (RM3,511,000.00) only** ("Outstanding Sum");
5) That your client pays to our client the Outstanding Sum within seven (7) days from the date of this letter.

Thank you.

Yours faithfully,
Messrs Rohamat & Ling

.....

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Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

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Our Ref : **FSA.R.ENEPETRO.0.15.20.NH.MA.ub**
Your Ref : LIT/2020 114_ARAR
Date : 08th February 2021

Please Chop & Sign & Return This Copy

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

BY EMAIL/FAX/COURIER

Attn: Mr. Mark Wong Kah Kit

Dear Sirs,

Re: Closing Down ENE Tech Ventures Sdn Bhd ("Company")

We refer to the above, to our letters dated 30.12.2020 and 08.01.2021, to your letter dated 12.01.2021 and 3 February 2021.

Our Client strongly denies that they have agreed to pay an amount of Ringgit Malaysia Four Million Five Hundred (RM4,500,000.00) only to your client. However, our Client acknowledges the content of your Letter only to the extent that an amount of Ringgit Malaysia Nine Hundred Eighty-Nine Thousand (RM989,000.00) has been paid to your client.

Please note that since your client is unable to agree to close down the Company, we shall forward to your client the invoices from the relevant parties, among others the company secretary and the auditor, to be paid by your client in order to maintain the operation of the Company.

For and on behalf of
MESSRS FADHLI SUTRIS & ASSOCIATES

CC Our Client

No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur.
Tel : 603-4141 8823 | Fax : 603-4141 8824 | Email : law@fadhlisutris.com

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* * * Communication Result Report (10. Feb. 2021 13:02) * * * 146

1)
2)

Date/Time: 10. Feb. 2021 13:02

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
0035	Memory TX	0379325151	P. 1	OK	

Reason for error
E. 1) Hang up or line fail
E. 2) Busy
E. 3) No answer
E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size
E. 6) Destination does not support IP-Fax

Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UITM, DLSA UITM
Nur Hidayah M. Fadzilah LLB (Hons.) UITM
Zulhaini Sulaiman LLB (Hons.) UITM

Our Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Your Ref : UT/2020 114_ARAR
Date : 08th February 2021

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

BY EMAIL/FAX/COURIER

Attn: Mr. Mark Wong Kah Kit

Dear Sirs,

Re: Closing Down ENE Tech Ventures Sdn Bhd ("Company")

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Our Client strongly denies that they have agreed to pay an amount of Ringgit Malaysia Four Million Five Hundred (RM4,500,000.00) only to your client. However, our Client acknowledges the content of your Letter only to the extent that an amount of Ringgit Malaysia Nine Hundred Eighty-Nine Thousand (RM989,000.00) has been paid to your client.

Please note that since your client is unable to agree to close down the Company, we shall forward to your client the invoices from the relevant parties, among others the company secretary and the auditor, to be paid by your client in order to maintain the operation of the Company.

For and on behalf of
MESSRS FADHLI SUTRIS & ASSOCIATES

CC Our Client

No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur.
Tel : 603 4131 1557 | Fax : 603 4143 8824 | Email . hs@fadhlisutris.com

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CITY-LINK Express

147

960307203476970

Origin Station	Destination Station
WMJ	TPM

1. From (Shipper)

Contact Person	Phone Number
UBAIDURRAHMAN	0132941716

Shipper / Company Name: UBAIDURRAHMAN

Shipper Address: TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI

City	State / Province
KUALA LUMPUR	KUALA LUMPUR
Country: MY	ZIP / Postal Code: 53300
Shipper's Account No	Shipper's Reference No

2. Shipper's Signature & Authorization

Shipper's Signature	Date (DD/MM/YYYY): 10/02/2021
	Time (HH/MM)

3. Services

Product Group	Product Type
	DOX

4. Shipment Information

No. of Pieces	Gross Weight (kg)
1	0.10

Description of Goods / Harmonized Code

5. Transportation Charges

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Shipper Account If Not Selected*

6. Ship To (Receiver)

Contact Person	Phone Number
MT. MARK	0379325115

Consignee Name: MESSRS. ROHAMAT & LING

Receiver Address (We Do Not Deliver to P.O.Box)
ADVOCATES & SOLICITERS
1009, LEVEL 10 , MENARA PJ. PUSAT PERDAGANGAN
AMCORP. NO. 18 JALAN PERSIARAN BARAT

City	State / Province
PETALING JAYA	SELANGOR
Country: MY	ZIP / Postal Code: 46050
Receiver's Account No	Receiver's Reference No

7. Receiver's Signature & Authorization

Receiver's Name	
Date (DD/MM/YYYY)	Time (HH/MM)
Receiver's Signature	Receiver's ID No.

Chargeable Weight (kg)	Country Of Manufacture
0.10	
Custom Value	Currency
Sender's VAT/GST No	Receiver's VAT/GST No

8. Duties and Taxes

☐ Bill Shipper A/C No:-
☐ Bill Receiver
** Default to Receiver If Not Selected*

S/N F5jq9ViFEucz9jZ2qp1QQ
**Note : Serial number will be used to verify the originality of this document via eFILING portal

INVOICE

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CITY-LINK EXPRESS (M) SDN BHD (64844-A)
WISMA CITY-LINK,NO:3A, JALAN AKITEK U1/22,
SEKSYEN U1,HICOM-GLENMARIE !ND. PARK
40150 SHAH ALAM, SELANGOR, MALAYSIA.
TEL: 03-41315934 FAX: 03-41316846
(SST No.: B16-1808-31007280)

Invoice No : PWMJ003022107
Invoice Date : 10/02/2021
Account No : WMJCASH

Shipper's Name : UBAIDURRAHMAN
Shipper's Address : TETUAN FADHLI SUTRIS & ASSOCIATES
NO. 8-2, JALAN WANGSA SETIA 3
WANGSA MELAWATI
53300, KUALA LUMPUR, KUALA LUMPUR, MY

Shipper's Tel : 0132941716

No	Consignment	Type	Weight (kg)	Dest	TOS	Amt (RM)	ODA Amt (RM)	Surcharge (RM)	Tax (RM)	Total (RM
1	960307203476970	Standard Rated	0.10	TPM	DOX	4.26	0.00	1.53	0.35	6.1

Gross Amount	4.2
ODA Amount	0.0
Surcharge + ESS	1.5
Total Amount (exc. SST 6%)	5.7
SST 6%	0.3
Rounding Adj.	0.0
Total Amount (inc. SST 6%)	6.1

*ESS = Emergency Situtation Surcharge (15%)

STANDARD CONDITIONS OF CARRIAGE

1. All and any business undertaken by CITY-LINK EXPRESS (M) SDN BHD (hereinafter referred to as the "Company") is transacted to the conditions hereinafter set out and shall be deemed to be a condition of any agreement between the Company and its Customer or any person acting on behalf of the Customer (hereinafter referred to as the "Shipper"

2. The Company shall not be bound by any agreement purporting to vary these conditions unless such agreement shall be in writing and signed on behalf of the Company by an authorised Officer of the Company. All conditions, warranties, descriptions, representations and agreements not set out in these conditions and whether they be expressed or implied by law, custom or otherwise are hereby expressly excluded. No officer, servant, agent or representative is authorized to make any representations, statements, warranties, conditions, and or agreement not expressly set forth in these conditions and the Company is not in any way bound by any of them or to be taken as to form part of the contract with the Company or collateral to the main contract.

3. The Company will NOT ACCEPT the following items for courier: CASH (in any currency, CASH CHEQUES, REDEEMABLE CASH VOUCHERS, NEGOTIABLE INSTRUMENT (share certificates, bonds, etc.), JEWELLERY/PRECIOUS METALS AND STONES, PERSONAL DOCUMENTS (identity cards, passports, certificates, etc), WORKS OF ART, FIREARMS/EXPLOSIVES, ALL COMBUSTIBLE/INFLAMMABLE PRODUCTS (e.g. paints, turpentine, spirit, etc), LIQUOR, TABACCO, PERISHABLE FOODSTUFF, ANY OTHER DANGEROUS OR HAZARDOUS ITEMS, HANDPHONES and any goods or materials that are prohibited by law, rule or regulation of any country.

4. The Company is not a common carrier. The Company reserves the right to refuse the carriage or transportation of any class of goods at its discretion.

5. Whenever the Company undertakes or arranges transport storage or any other services it shall be authorized to entrust the goods or arrangements to third parties on the latter's contractual conditions. The Shipper shall be bound by such conditions and shall indemnify the Company against any claims arising out of their acceptance

6. When and to the extent that the Company has undertaken to perform any services, it undertakes to perform and/or in its own name to procure the performance of those services and subject to answers to the totality of these Conditions accepts liability for loss or damage to goods taken into its charge and the time when the Company is entitled to call upon the Shipper to take delivery of the Goods.

7. The Company shall be deemed to have taken the Shipment (which term shall include all documents or parcels that travel under one waybill or consignment note and which may be carried by air, road or any other carrier) into its charge when they have been received by the Company or have been released or handed over by the Shipper to any person acting on behalf of the Company in accordance with any directions of the Company for the performance of the Shipper's instructions

8. The Shipper entering into transactions of any kind with the Company expressly warrant that neither the transaction nor the carriage of the Shipment is in breach of any statute regulation or other law relating to postal or courier services and that they are either the owners of or the authorized agents of the owners of any goods or property being the subject matter of the transaction and by entering into the transaction they accept these conditions for themselves as well as for all other parties on whose behalf they are acting. Shipper undertakes to indemnify the Company against any damages, costs and expenses resulting from any breach of these warranties

9. The Shipper and consignees of any Shipment and/or their agents, if any shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs consular and other purposes and they undertake to indemnify the Company against all losses, damages, expenses and fines arising from any inaccuracy or omission in such instruction or omissions is not due to any negligence.

10. The Company will not be liable under any circumstances or for any loss, damage or expense arising from in any connection with marks, weights, numbers, brands, contents, quality or description of any Shipment

11. For delayed Shipments, the Company's liability shall only be limited up to the sum of the courier charges paid by the Shipper provided that such delay was due to the negligence of the Company, its servants or agents

12. The Shipper and consignees and/or their agents, if any shall be liable for any duty, tax, imposts or outlays of whatsoever nature levied by the authorities of any port or place for or in connection with the goods and for any payments, fines, expenses, loss or damage incurred or sustained by the Company in connection herewith.

13. (a) The Actual Value of a document (which term shall include any item of no commercial value which is transported hereunder) shall be ascertained by reference to its cost of preparation or replacement, reconstruction or reconstitution value at the time and place of shipment whichever is less.

(b) The Actual Value of a parcel (which term shall include any item of commercial value which is transported hereunder) shall be ascertained by reference to its cost of repair or replacement, resale or fair market value at the time and place of shipment, whichever is less. In no event shall such value exceed the original cost of the article actually paid by the Shipper plus 10%

14. Any claims brought against the Company with respect to damaged or delayed consignments shall be made in writing within 48 hours. For lost consignments, notification shall be made within 21 days from the date the consignment of goods were due to arrive at their destination, failing which the Company shall not be held responsible for any loss or damage arising howsoever.

15. Shipments which cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the consignee may be sold or retained at the Company's option at any time after the expiration of 21 days from the date a notice in writing is sent to the address which the sender gave to the Company on delivery of goods. All charges and expenses arising in connection with the sale or return of the goods shall be paid by the Shipper. Communication from any agent or correspondence of the Company to the effect that the goods cannot be delivered for any reason shall be conclusive evidence of that fact.

16. The packaging of documents and goods is the Shipper's responsibility. The Company will not be responsible for any loss or damage due to inadequat inappropriate packaging

17. The Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damag person delivering such good to the Company or causing the Company to handle or deal with any such goods shall be liable for all loss or damage cau thereby and shall indemnify the Company against all penalties, claims, damages, costs and expenses arising in connection therewith and the goods destroyed or otherwise dealt with as the sole discretion of the Company or any other person in whose custody they may be at the relevant time. Th expression "goods" likely to cause "damage" include goods likely to harbour or encourage vermin or other pests.

18. (a) The Company shall not be liable for or in respect of any loss or damage suffered by the Shipper howsoever caused or arising without limiting the generality of the foregoing, whether caused or arising by reason or on account of loss or damage to goods, mis-delivery or non- delivery, delay in delivery, concealed damage, deterioration contamination, evaporation, cancellations or delays in scheduled air flights, in customs procedures or any re-mailing or any other means of on-forwarding in or to overseas countries, war, invasion, acts of foreign enemies, hostility (wh war be declared or not), civil war, rebellion, insurrection, military or usurped power, confiscation or under the order of any Government or public authority and whether or not the same shall be due or alleged to be due to the negligence or any deliberate misconduct or any wrongful act on the the Company, its servants or agents or any other person

(b) The Company shall not under any circumstances be liable for loss or damage resulting from or attributed to any quotations, statement, representation, or information, whether oral or in writing howsoever, whomsoever or to whomsoever made or given by or on behalf o Company or by any servant, employee or agent of the Company as to the classification of or liability for amount scale or rate of customs duty, excl or other imposts or tax applicable to any goods or property are such that the Company shall commit any breach of any Act Of Parliament regulation Ordinance or other law made in respect of the same

19. The liability of the Company for any loss or damage to the Shipment howsoever arising and notwithstanding that the cause of the loss be unexpla shall be limited to the lesser of:
(1) RM200.00 or

(2) The amount of loss or damage to a document or parcel actually sustained; or

(3) The Actual Value of the document or parcel as determined under Clause 13 (a) and (b) hereof, without regard to its commercial utility or spec to the Shipper.

20 The Company shall not be liable, in any event, for any consequential or special damages or other indirect loss, howsoever arising, whether or not Company had knowledge that such damage might be incurred, including, but not limited to, loss of income profits, interest, utility or loss of mark

21. The defences and limits of liability provided for in these Conditions shall apply in any action against the Company whether such action be founded i or tort or in any other form

22. The contract between the Company and the Shipper shall be governed be local law and the parties submit to the exclusive jurisdiction of the loca competent to deal with disputes arising out of this contract.

23. All goods and documents relating to the goods shall be subject to a particular and general lien and right of detention for monies due either in re such goods or any particular or general balance or other monies due from the sender owner or consignee and their agents to the Company. If ar due to the Company is not paid within the terms set out and agreed or within 14 days after the notice has been given to the person from whom is due that such goods are being detained and same may be sold by auction or otherwise at the sole discretion of the Company and at the expen a person for fees applied or towards satisfaction of such indebtedness. The sender owner or consignee and their agents hereby waives any cross payment due.

24. The Company's charges are calculated according to the higher of actual or volumetric weight and the Shipment may be re-weighed and re-measu the company to confirm this calculation. For the purposes of ascertaining the volumetric weight of any parcel, the following formula applies :-
Length x Width x Height (cm) / 5000 = Volumetric weight (Kg)

25 The Company's shipment charges do not include insurance cover for Shipments in transit and the Shippers will arrange insure for their Shipmen intended transit. The insurance policy shall include a waiver of subrogation clause for the benefit of the Company.

26 City-Link shall not be made any Proof of Delivery for this shipment.

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Rohamat & Ling
ADVOCATES & SOLICITORS
PEGUAMBELA & PEGUAMCARA

(Formerly known as Tee, Liew & Co.)
1009, Level 10, Menara PJ, Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
Tel: 03-7932 5115 / 03-7932 5050
Fax: 03-7932 5151
Email: info.kl@r-ling.com

Partners
Alan Ling Sie Kiong — LL.B (Hons) Sheffield, CLP
Bernard Tee Shyong Jiunn — LL.B (Hons) Sheffield, CLP
Lai Jin Shawn — LL.B (Hons) Sheffield, CLP
Liew HongYi — LL.B (Hons) Sheffield, CLP
Mark Wong Kah Kit — LL.B (Hons) Sheffield, CLP
Rohamat Kamal Bin Mustafa — LL.B (Hons) IIUM

Legal Assistants
Lau Seow Mui — LL.B (Hons) Manchester, CLP
Mavis Tan May Yeh — LL.B (Hons) London, CLP

Your Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub
Our Ref : LIT/2020 1114_ARAR
Date : 23 April 2021

Messrs Fadhli Sutris & Associates
No.8-2, Jalan Wangsa Setia 3,
Wangsa Melawati,
53300 Kuala Lumpur.

By Email & Fax
(law@fadhlisutris.com)
(F: 03-4141 8824)

Dear Sir,

RE: MEMORANDUM OF AGREEMENT BETWEEN AHMAD RIDZUAN AHMAD RUSLI & ENE PETRO SERVICES SDN BHD

Reference is made to the above matter and your agreement with our client dated 26th October 2020.

We are instructed by our client to propose the following independent auditors:-

1. PWC
2. EY
3. KPMG

Please find attached herewith the memorandum of agreement for your client's execution and further action.

Kindly notify us of your client's choice of independent auditor together with the executed memorandum of agreement and the outstanding sum as defined therein within seven (7) days from the date of this letter failing which we have our client's strict instructions to initiate legal action against your client without further reference to your client.

Yours faithfully,
Messrs Rohamat & Ling

.....

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MEMORADUM OF AGREEMENT

THIS AGREEMENT is made on the day of , 2021.

MADE BETWEEN

AHMAD RIDZUAN BIN AHMAD RUSLI (NRIC No.: 791221-01-6465) of No. 2, Jalan Panglima Awang 35/126D, Alam, Impian, 40470 Shah Alam, Selangor (hereinafter referred to as **"Creditor"**) of one part

AND

ENE PETRO SERVICES SDN BHD (COMPANY NO.: 1125108-T) a company incorporated in Malaysia and having its address at Suite 7.03A, North Block, The Ampwalk, 218 Jalan Ampang, 50450 Kuala Lumpur (hereinafter referred to as **"Debtor"**) of second part

RECITAL

(A) The parties have on or about 26th October 2020 agreed that the Debtor shall pay to the Creditor a sum equivalent to fifty (50%) per centum of the net profit based on payment received and forty (40%) per centum of the net profit not received generated from Curtiss Wright, Malakoff and GWC Italia businesses during the employment of the Creditor subject to, inter alia, this memorandum of agreement to be drawn up.

(B) The statement of account in relation to the above has been prepared.

(C) The parties now intend to enter into this memorandum of agreement so that the Debtor can release the outstanding sum owed by the Debtor to the Creditor

1. **IN CONSIDERATION** of the Creditor agreeing to accept the sum of Ringgit Malaysia Three Million Five Hundred Thousand (RM3,500,000.00) only as full and final settlement, the Creditor hereby fully and irrevocably confirm and agree to the following: -

   (i) The outstanding sum amounting to Ringgit Malaysia Three Million Five Hundred Thousand (RM3,500,000.00) only paid pursuant to this Agreement to the Creditor ("Outstanding Sum") shall be full and final settlement pursuant to this matter and the Creditor hereby acknowledge and confirm that he shall have no further claims against the Debtor.

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(ii) The Creditor hereby acknowledges and confirms that he shall have no rights to any confidential information of the Debtor.

(iii) The Debtor shall have no rights, interest, benefits and titles whatsoever in the Debtor save and expect for the Outstanding Sum.

2. The Debtor warrants that the signatory to this Agreement is duly authorised to execute the agreement on behalf of the Debtor.

3. If any of the provisions of this Agreement becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

4. Time wherever mentioned shall be of the essence of this Agreement.

5. All the parties hereto shall execute and do and procure all other persons or companies, if necessary, to execute and do all such further resolutions, deeds, assurance, acts and things as may be reasonably required so that full effect may be given to the terms and conditions of this Agreement.

6. This Agreement shall be governed by and construed in accordance with the laws of Malaysia and the parties hereto hereby:-

(i) irrevocably submit to the non-exclusive jurisdiction of the Courts of Malaysia;

(ii) waive any objection on the ground of venue or forum non convenience or any similar grounds; and

(iii) consent to service of process by mail or in any other manner permitted by the relevant law.

7. This Agreement shall be binding upon the heirs personal representatives nominees, trustees, permitted assigns and successors-in-title of the partles hereto.

8. Each party shall pay its own solicitors' cost in respect of the negotiations and the preparation and completion of this Agreement.

[The space below has been intentionally left blank]

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IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands the day and year first abovewritten.

SIGNED by the Creditor)
in the presence of:-)
)
)

.....
AHMAD RIDZUAN BIN AHMAD RUSLI
(NRIC No.: 791221-01-6465)

SIGNED for and on behalf of the Debtor)
in the presence of:-)
)
)

.....
AUTHORISED SIGNATORY
NAME:
NRIC NO.:

Affix Rubber Stamp here:-

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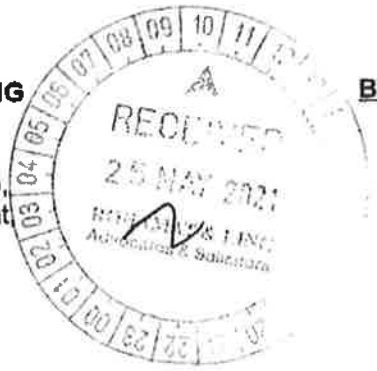
Fadhli Sutris & Associates
Advocates & Solicitors | Peguambela & Peguamcara

Muhammad Fadhli M. Sutris LLB (Hons.) UiTM, DLSA UiTM
Nur Hidayah M. Fadzilah LLB (Hons.) UiTM
Zulhairil Sulaiman LLB (Hons.) UiTM

Your Ref : **LIT/2020 1114_ARAR**
Our Ref : **FSA.R.ENEPETRO.0.15.20.NH.MA.ub**

Date: 20 May 2021



BY REGISTERED POST

MESSRS. ROHAMAT & LING
Advocates and Solicitors
1009, Level 10, Menara PJ,
Pusat Perdagangan Amcorp,
No. 18 Jalan Persiaran Barat,
46050 Petaling Jaya,
Selangor.

Dear Sirs,

Re: Reply to Letter Dated 23 April 2021

We refer to the above and to your letter dated 23 April 2021 ("your letter").

We, as well as ENE Petro Services Sdn Bhd, our client, are rather perplexed to receive your letter as the letter which, we must say, is not only vague, confusing and inconsistent but is also based on unfounded claims, to say the least made by Ahmad Ridzuan Bin Ahmad Rusli, your client. To the best of our client's recollection, there is no agreement made on 26 October 2020 between your client and our client that is still subsiting.

Given to the above, our client will not proceed with what has been proposed in your letter.

For and on behalf of

CC Our Client

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Farris USA, ASIA & ENE

Ahmad Farris, Farris, You

Ahmad Ridzuan 11/2/2020

Ok.. check

Farris Sean

I thought you no longer worked for ENE?

Ahmad Ridzuan

For Jabura issue client already know that I'm leaving but they need my assistance

I stay in the Whatsapp group

So I feel their pain and need to assist them

I shall surrender company belonging untuk ENE paid my settlement

Nur did update relieving temp 45.99

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155 (5)

ENE Farris Top Management

Ridzuan

Dia belum jawab

10/29/2020

Ridzuan Shuffle

Alhamdulillah Epit aku baru balik Main golf ngan Meor dapat satu birdie hari n

Tahnian tu ENE dapat 1st Payment dari Trisystem rm 1.2 juta

Mudah2an boleh settle ngan brother cepat dan ape2 yg outstanding

Nnt Suhaidi akan Contact ko ada 4 biji Farris Valve dia nak beli

Ridzuan Shuffle

Alhamdulillah Epit aku baru balik Main golf ngan Meor dapat satu birdie hari ni

21:35

Ok nanti aku setel portion ko esok

21:35

Ridzuan Shuffle

Nnt Suhaidi akan Contact ko ada 4 biji Farris Valve dia nak beli

Ok noted

21:36

Ridzuan Shuffle

Noted Esok aku dtg nak ambil barang dan discuss aku cali dan text Abg Khairu Tak berjawab.

Aku Tak leh tggu lama sebab aku tak masuk report duty kat mana ? Company sampai aku settle hal ENE that is the advice from the director dan company yg nak offer aku.

Kemudian auditor dan lawyer aku bagi tau jgn Bank in cheque 100k tu sampai all figure agreed. So Esok aku nak masuk office ko try cAll pulak Abg Khairu

S/N F5jq9ViFEucz9jZ2qp1QQ
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ENE Farms Top Management
Ahmad

Epit ni balance cut aku

Nnt advise aku Tak dapat input dari Abg Khairul lagi

Ahmad Ridzuan
Nnt advise aku Tak dapat input dari Abg Khairul lagi

petang nie dia kata nak call back 11:39 AM

Ahmad Ridzuan
Ok aku tggu

11/2/2020

Ahmad Ridzuan
Epit sejak dari last week aku call dan text Khairul tak de reply dan pick up call
Nnt update

Dia tengah prepare 13:11 AM

Weekend dia tak available 13:11 AM

Ahmad Ridzuan
K

Tinggal nak siapkan 2020 13:12 AM

11/4/2020

Manoque left

Manoque left

11/9/2020

Ahmad Ridzuan
Epit, Abg Khairul ada update dia kata dari Hantar audited Account dan hantar copy Ke LHDN but bila aku tanya bila hantar diam pulak. Aku baru je balik jumpa Epit kata belum dapat

audited account the whole company mmg dah submit ke lhdn 18:00 AM

nie yang hal ko nie dia tengah buat kan 18:00 AM

Ahmad Ridzuan
Dia jawab Tergantung

Ahmad Ridzuan
[redacted]
Kita tggu Abg punya update baru brain buat keputusan

ok

nnti saya bg acc

utk review

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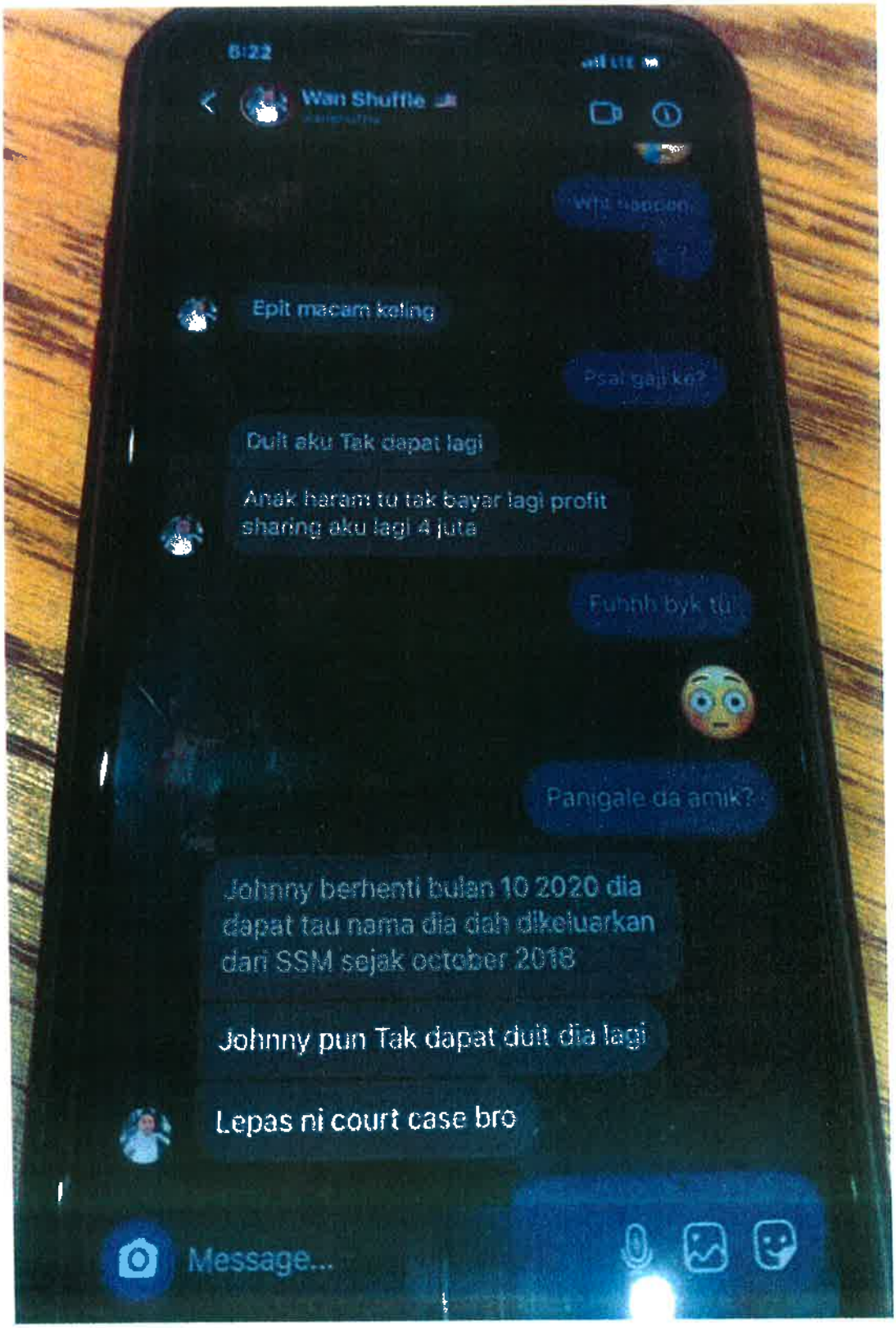

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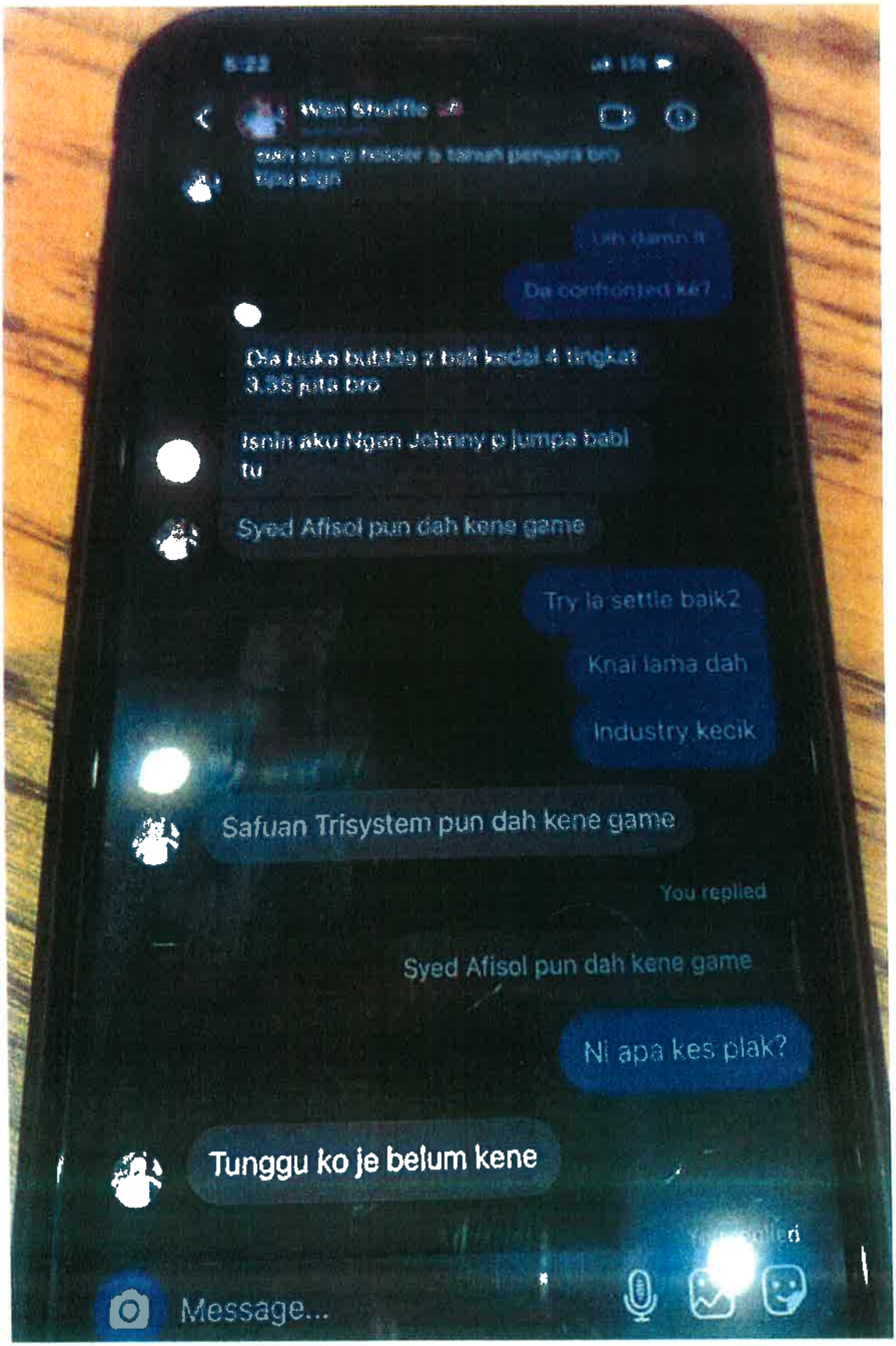

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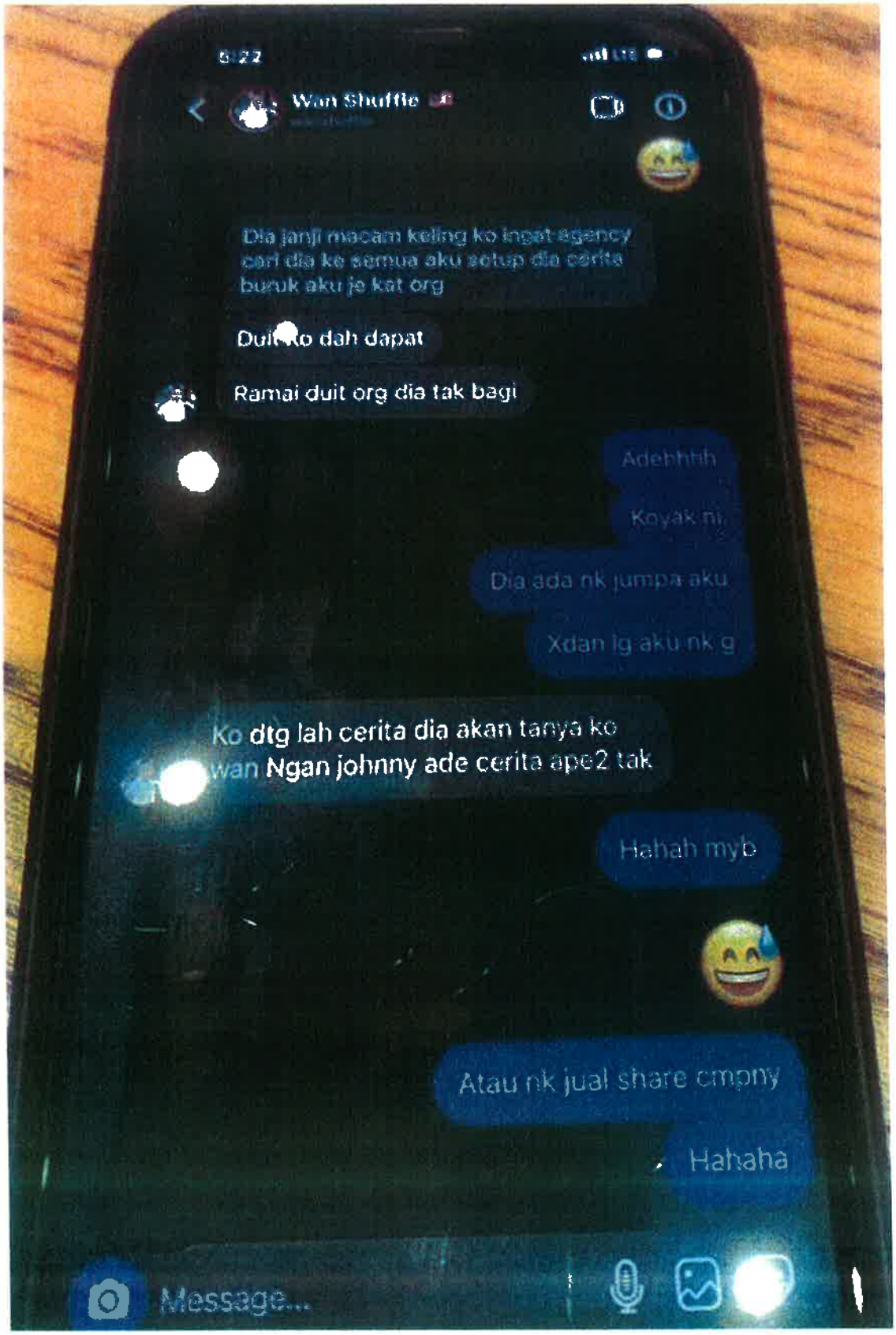

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16:27

Ahmad Ridzuan
11/9/20, 18:01
6:01 PM

All Media

189

Tax Consultan Kha...

Kita tggu Abg punya update baru boleh buat keputusan 4:12 PM

ok.

nnti saya bg acc

utk review

dh siap

nk table bg semua tgk

ridz1979@gmail.com 4:41 PM

Mekasih bang Khairul 4:41 PM

doc lhdn saya dh email terus ke officer

budak saya ada cc kt abg

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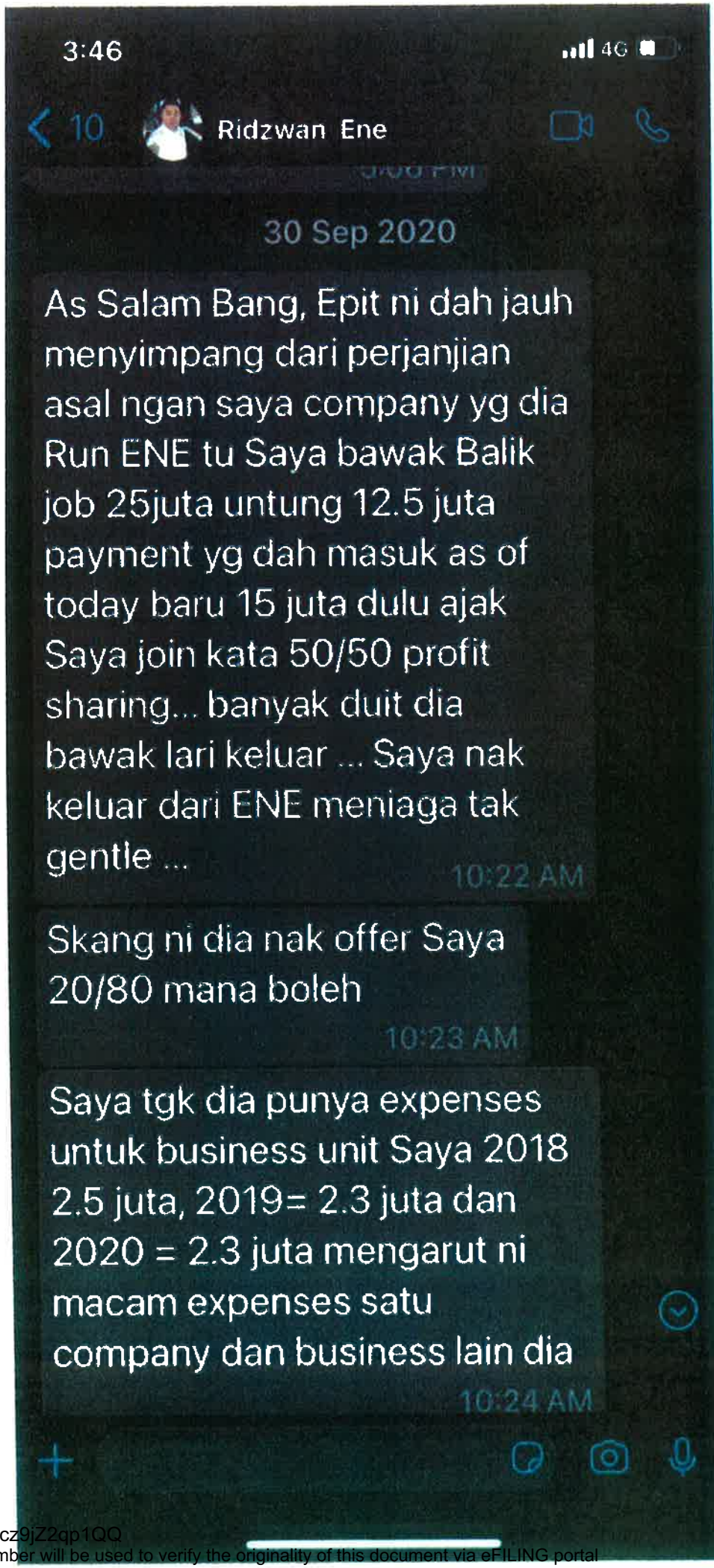

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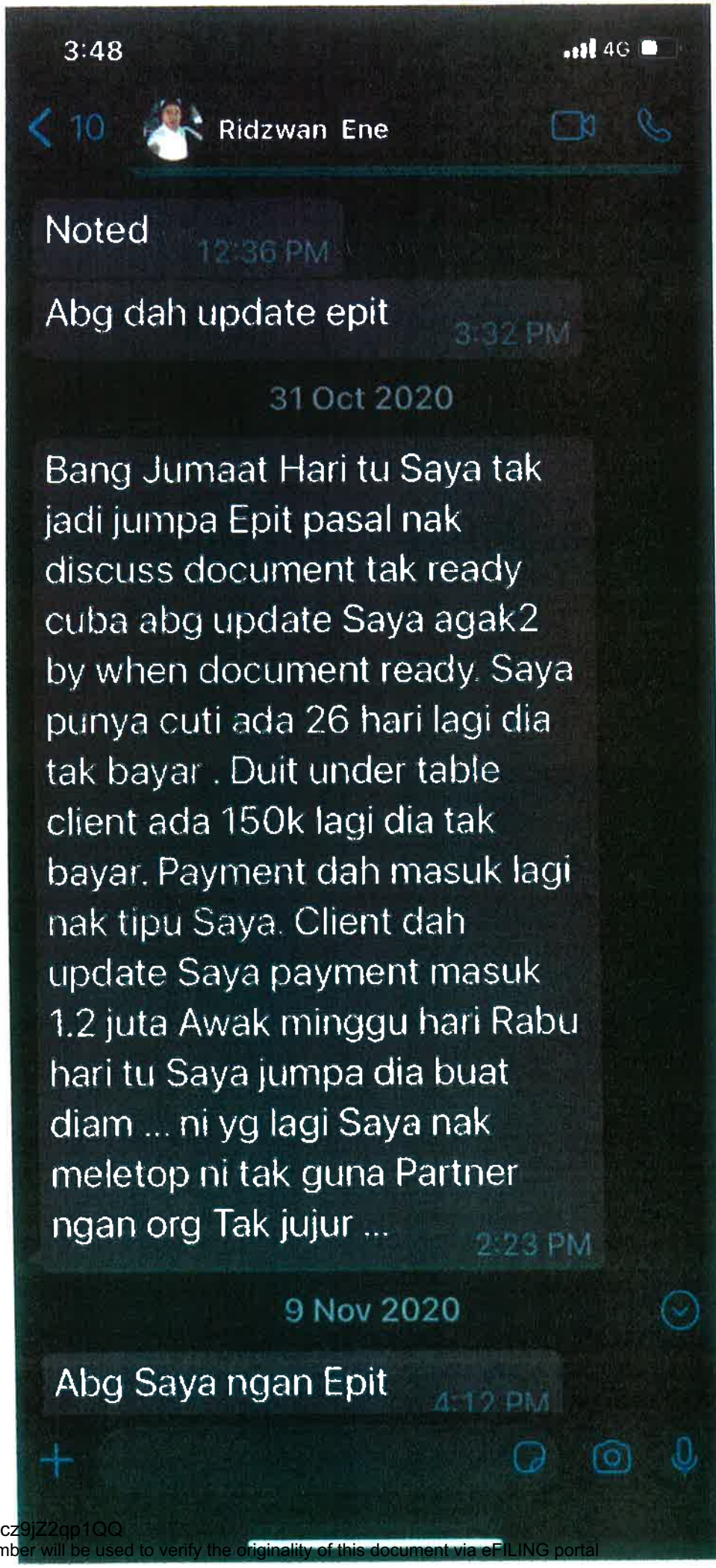

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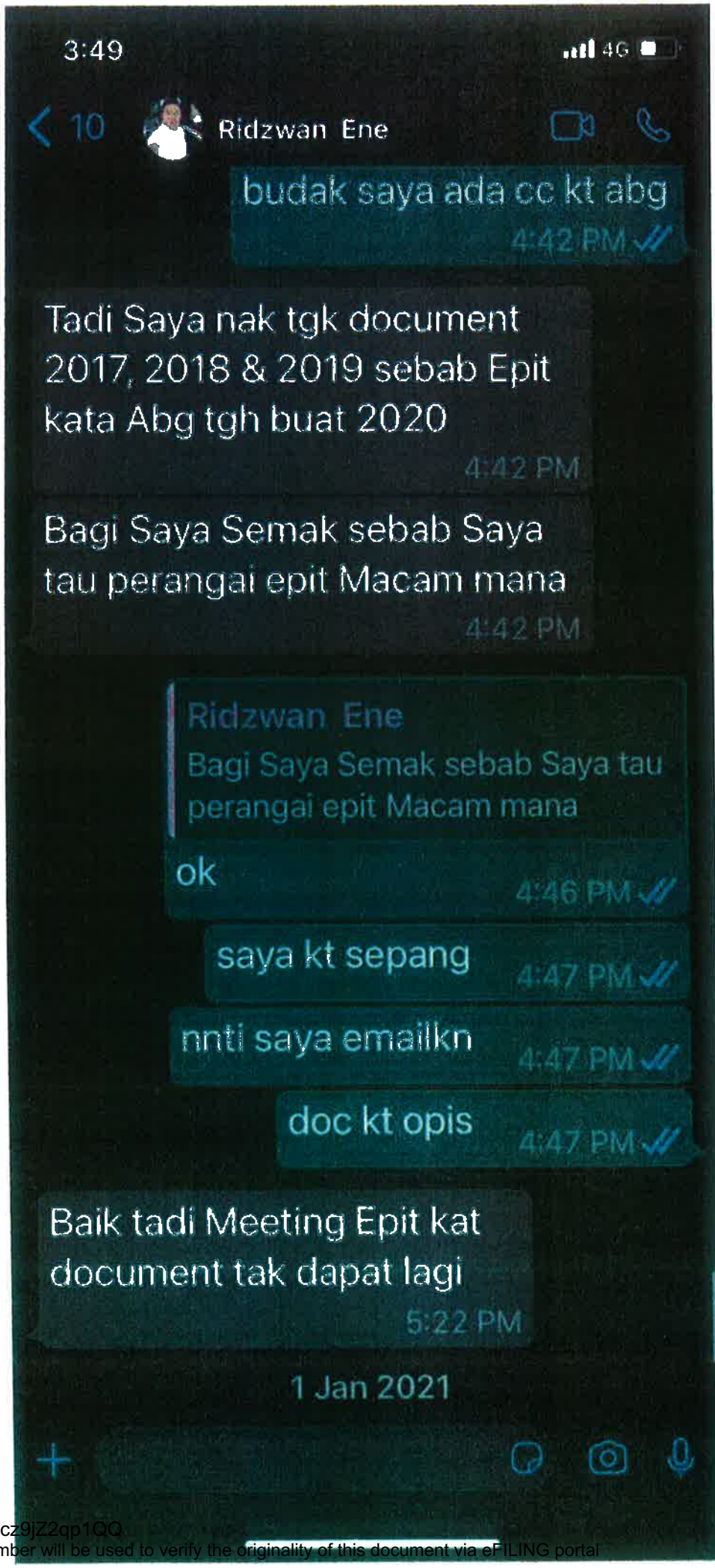

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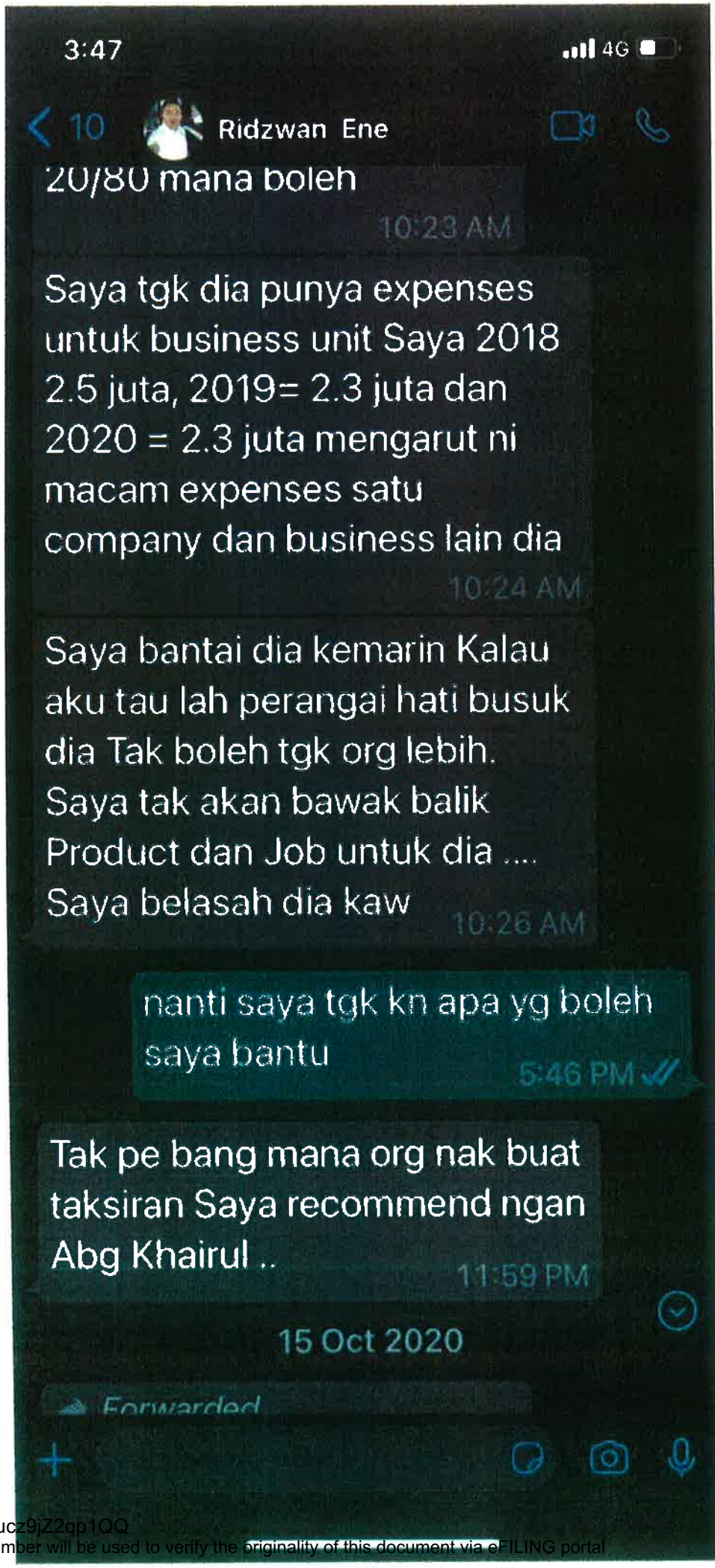

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12:19

16 Pcsb Hanan
online

Nov 12, 2020

Forwarded
Aku bawak balik PO 28 juta untung 14 juta janji nak split 50:50 cuma bayar aku RM 900k Lepas tu bila aku nak berenti dia declare nak bayar aku 1.2 juta

Forwarded
Memang aku nak fight masuk mahkamah semua untung rugi company aku tau sebab aku buat sale

Forwarded
Kalau ada setting pun kenapa nak selindung kata Partner Aku punya dia sebuk ikut aku

Forwarded
Lepas tu guna duit company beli property

Forwarded
Sorok 2 dari aku

Forwarded
Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

Forwarded
Johnny p refer lawyer

Forwarded
Amanina berenti sebab semua org gaji dia potong 25% dari bulan 4 sampai 9 selama 6 bulan budak2 buat kerja dia tau untung company besar kenapa nak potong.

Forwarded
Ko hati2 ngan org macam ni dia sembang semua org dia kenal . Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

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12:20

16 Pcsb Hanan

Lepas tu guna duit company beli property

Nov 12, 2020

Forwarded
Sorok 2 dari aku

Forwarded
Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

Forwarded
Johnny p refer lawyer

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Forwarded
Ko hati2 ngan org macam ni dia sembang semua org dia kenal . Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

Forwarded
Dia buat aku susah

Forwarded
Skang dia kaya dia berlagak macam tuhan

Forwarded
Wow dia sembang ngan aku dan Johnny Awak rapat ngan dia. Saya Kalau baik ngan org pun Tak mau cerita lah buat ape menunjuk2

Forwarded
Dia baru nak meniaga sembang tinggi sangat

Tu je bro

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4:36

Wan ENE
online

17 Sep 2020

Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.

Forwarded

ENE Petro Form 24.pdf

1.5 MB · pdf 12:26 PM

Ni prove Saya bukan Partner Epit ... deal dia tarik aku join 50% : 50% profit sharing aku Start bawak Job balik ke ENE sejak 2017 sampai hari ni . Total dalam rm 25 juta untung 50% = 12.5 juta Tapi Saya dapat bayaran tak sampai sejuta tak seperti Di janjikan...

Jadi berbekalkan duit simpanan dan Partner paid up rm 200k Saya nak jalan pakai ProSky 12:30 PM

You
Photo

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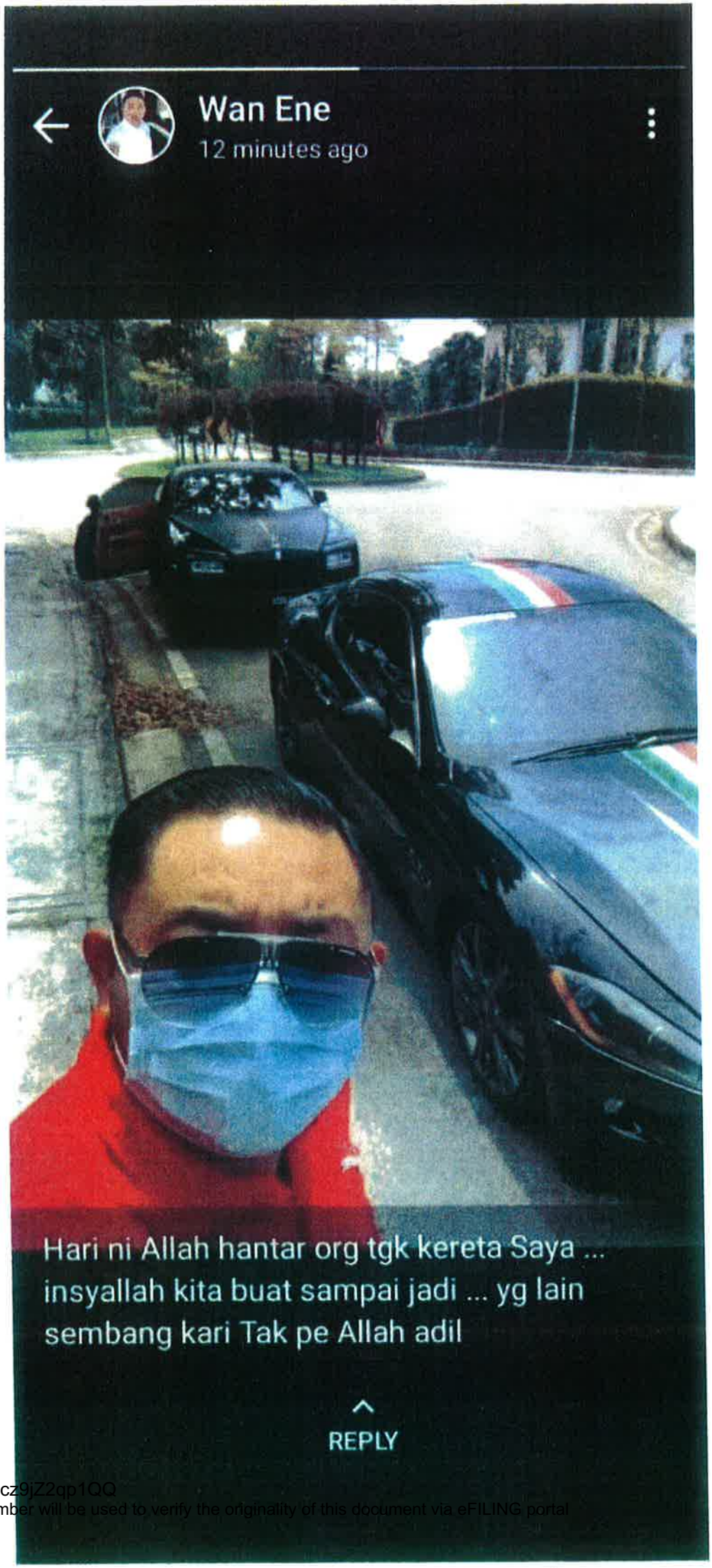

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Twelve-Month Cash Flow

Fiscal Year Begins: 1/1/2020

ENE PETRO SERVICES SDN BHD
SUITE 7.03A, NORTH BLOCK,THE AMPWALK
218 JLN AMPANG 50450 KUALA LUMPUR

CASH FLOW SUMMARY - MYR ACCOUNT

	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	TOTAL
REVENUE													
Farris	305,776.39	243,977.00	340,202.92	926,679.22	196,827.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,013,464.91
Malakoff	0.00	85,417.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	85,417.20
Other Product	2,651.80	0.00	500.00	111.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,262.82
Total Revenue	308,430.19	329,394.20	340,702.92	926,790.24	196,827.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,102,144.93
OTHERS													
Total Fund	104,701.52	1,500.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	106,201.52
Total (Revenue+Others)	413,131.71	330,894.20	340,702.92	926,790.24	196,827.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,208,346
Expense													
Salary	99,025.20	99,025.20	99,025.20	75,273.75	86,273.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	458,623.10
Incentive/Bonus	400,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	400,000.00
KWSP/PERKESO/LHDN	9,823.90	12,737.05	12,737.05	12,737.05	8,245.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	56,280.25
Office Expense	10,015.50	10,481.74	867.95	20,000.00	20,939.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	62,304.94
Financing Payment	9,800.00	0.00	0.00	306,376.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	316,176.33
Loan Repayment	1,588.00	1,588.00	1,588.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,764.00
Medical Claim	0.00	55.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	55.00
General Payment	5,453.00	0.00	25,368.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	30,821.50
Project Payment	48,183.80	5,651.83	92,186.01	0.00	200,213.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	346,234.96
Shipping Payment	57,483.02	9,949.48	49,041.76	5,574.31	66,371.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	188,419.61
Duty/GST Payment	1,393.80	1,141.65	965.20	562.10	9,993.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	14,055.80
Secretarial and Accounting Fee	0.00	0.00	0.00	0.00	310.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	310.00
Project/Expense Claim	38,603.96	7,839.78	11,134.70	0.00	8,066.61	0.00	0.00	0.00	0.00	0.00	0.00	0.00	65,645.07
Advance Request	26,120.00	800.00	800.00	572.50	150.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	28,442.50
Bank Fee & Related	10.50	0.50	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12.00
Total Expense	707,500.70	149,270.23	293,715.39	421,096.04	400,562.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,972,145.06
OPENING BALANCE	351,854.90	57,485.91	239,109.88	286,097.41	791,791.61	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	
TOTAL (REVENUE+OTHER)	413,131.71	330,894.20	340,702.92	926,790.24	196,827.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,208,346.45
TOTAL EXPENSE (DEBIT)	707,500.70	149,270.23	293,715.39	421,096.04	400,562.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,972,145.06
ACTUAL CASH POSITION	57,485.91	239,109.88	286,097.41	791,791.61	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	
FINANCING	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FUND RECEIVED (CREDIT)	413,131.71	330,894.20	340,702.92	926,790.24	196,827.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,208,346.45
LEDGER BALANCE	57,485.91	239,109.88	286,097.41	791,791.61	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	588,056.29	

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Twelve-Month Cash Flow

Fiscal Year Begins: 1/1/2020

ENE PETRO SERVICES SDN BHD
SUITE 7.03A, NORTH BLOCK,THE AMPWALK
218 JLN AMPANG 50450 KUALA LUMPUR

CASH FLOW SUMMARY - USD ACCOUNT

	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	TOTAL
REVENUE													
Farris	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Product	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHERS													
Total Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total (Revenue+Others)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Expense													
Project Payment	3,738.03	2,534.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6,272.19
Shipping Payment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Duty/GST Payment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Project/Expense Claim	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Advance Request	25,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25,000.00
Bank Fee & Related	86.99	41.34	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	128.33
Total Expense	28,825.02	2,575.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	31,400.52
OPENING BALANCE	35,772.26	6,947.24	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	
TOTAL (REVENUE+OTHER)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL EXPENSE (DEBIT)	28,825.02	2,575.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	31,400.52
ACTUAL CASH POSITION	6,947.24	4,371.74	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	
FINANCING	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL FUND RECEIVED (CREDIT)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
LEDGER BALANCE	6,947.24	4,371.74	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	5,015.67	

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SUMMARY OF RECEIVABLES - FARRIS

NO	SALES YEAR	TOTAL AMOUNT	2018				2019				2020			
			INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount
1	2018	MYR 8,281,267.59	MYR 5,452,313.36	MYR 4,105,854.18	MYR 1,346,459.19	MYR 2,828,954.23	MYR 2,672,142.90	MYR 2,949,527.08	MYR 69,075.01	MYR 156,811.33	MYR 97,632.05	MYR 165,118.06	MYR 1,519.00	MYR 59,170.28
2	2019	MYR 8,235,650.44					MYR 3,692,691.34	MYR 2,768,643.44	MYR 924,047.90	MYR 4,542,989.10	MYR 1,517,893.34	MYR 1,908,384.69	MYR 453,556.55	MYR 3,025,665.76
3	2020	MYR 4,801,066.56									MYR 782,606.78	MYR 196,883.08	MYR 585,728.70	MYR 4,018,459.78
		MYR 21,317,984.59	MYR 5,452,313.36	MYR 4,105,854.18	MYR 1,346,459.19	MYR 2,828,954.23	MYR 6,364,834.24	MYR 6,718,170.52	MYR 993,122.91	MYR 4,699,770.43	MYR 2,398,132.17	MYR 2,350,985.83	MYR 1,040,969.25	MYR 7,102,704.82

2 5M

4,105,854.00

13,114,410.53 - total payment received

8,143,594.06. - balance need to be collected.

8,055,381.26. (total payment) 2018 + 2019

8,220,499.32 2018 + 2019 + 2020.

13,262,603.33 (balance payment to be collected)

6,300,000.00

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SUMMARY OF RECEIVABLES - OTHER CW & SERVICES

NO	SALES YEAR	PO AMOUNT	2018				2019				2020			
			INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount
1	2018	MYR 200,488.00	MYR 202,413.24	MYR 202,413.24	MYR 0.00	MYR 0.00								
2	2019	MYR 274,456.50					MYR 213,178.50	MYR 213,178.50	MYR 0.00	MYR 61,278.00	MYR 61,278.00	MYR 61,278.00	MYR 0.00	MYR 0.00
3	2020	MYR 0.00												
4	SERV2019	MYR 2,300.00					MYR 2,300.00	MYR 2,300.00	MYR 0.00	MYR 0.00				
5	SERV2020	MYR 64,313.30									MYR 64,313.30	MYR 53,753.30	MYR 10,560.00	MYR 0.00
		MYR 541,557.80	MYR 202,413.24	MYR 202,413.24	MYR 0.00	MYR 0.00	MYR 215,478.50	MYR 215,478.50	MYR 0.00	MYR 61,278.00	MYR 125,591.30	MYR 115,031.30	MYR 10,560.00	MYR 0.00

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SUMMARY OF RECEIVABLES - MALAKOFF

NO	SALES YEAR	PO BILLING	2018				2019				2020			
			INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount	INVOICED Amount	PAYMENT RECEIVED Amount	PENDING PAYMENT	PENDING INVOICE Amount
1	2018	MYR 875,763.00	MYR 856,263.00	MYR 856,263.00	MYR 0.00	MYR 19,500.00	MYR 19,500.00	MYR 19,500.00	MYR 0.00	MYR 0.00				
2	2019	MYR 184,707.20					MYR 99,290.00	MYR 99,290.00	MYR 0.00	MYR 85,417.20				
3	2020	MYR 85,417.20									MYR 85,417.20	MYR 0.00	MYR 85,417.20	MYR 0.00
		MYR 1,145,887.40	MYR 856,263.00	MYR 856,263.00	MYR 0.00	MYR 19,500.00	MYR 118,790.00	MYR 118,790.00	MYR 0.00	MYR 85,417.20	MYR 85,417.20	MYR 0.00	MYR 85,417.20	MYR 0.00

ORDER TRACKING

No	Customer	Project No	Quote Ref	PO Number	PO Date	PO ENE	Ferrix Sales Order	Delivery (Ex-work)	Order Progress Update	Delivery Date	Delivery Point	Invoice No	Payment	PO Amount	Buying Price Ex work (USD)	Buying Price Ex work (RM)	Transportation (RM)	Duty (RM)
												OCTOBER 2017						
1	Blackstone Process Solutions Sdn Bhd	P-5000	QUO-ENE-11001 R04	PO-P17.004.2017-002	25-Oct-17	PO-ENE-11001-2017	15L033705	2-Feb-18	DELIVERY TO BLACKSTONE	14-Feb-18	DDP Puchong	ACR/60081341 ($ 1,986.99)	PAID	MYR 15,890.00	$1,986.99	MYR 8,544.06	MYR 2,000.00	MYR 0.00
								TOTAL PRICE (OCTOBER 2017)						MYR 15,890.00	$1,986.99	MYR 8,544.06	MYR 2,000.00	MYR 0.00
												NOVEMBER 2017						
2	Sabah Shell Petroleum Co	P-5001	QUO-ENE-22001 R01	4513129975	6-Nov-17	PO-ENE-22001-2017	15L034099	8-Jan-18	DELIVERY TO SSPC	16-Feb-18	DAP Labuan	ACR/60079464 ($ 1,548.00) ACR/60080903 ($ 16,898.00)	PAID	MYR 291,900.00	$18,446.00	MYR 79,317.80	MYR 3,000.00	MYR 4,115.89
3	Satin Alpha Oil Field Sdn Bhd	P-5002	QUO-ENE-22007 R03	PO-ENE/PSV/001-17	10-Nov-17	PO-ENE-22007-2017	15L034047	30-Nov-17	DONE	15-Feb-18	DDP Paka	ACR/60079463 ($ 424.08)	PAID	MYR 11,298.36	$424.05	MYR 1,823.42	MYR 800.00	MYR 131.17
4	Satin Alpha Oil Field Sdn Bhd	P-5003	QUO-ENE-22008 R02	PO-ENE/PSV/002-17	10-Nov-17	PO-ENE-22008-2017	15L034103	6-Dec-17	DONE	25-Feb-18	DDP Paka	ACR/60079465 ($ 1,961.14)	PAID	MYR 71,477.48	$1,961.14	MYR 8,431.90	MYR 800.00	MYR 462.65
5	Aneka Engineering Sdn Bhd	P-5004	QUO-ENE-21008 R01	1036	20-Nov-17	PO-ENE-21008-2017	15L034260	12-Dec-17	DELIVERY TO ANEKA	13-Mar-18	DDP - Sabah	ACR/60079560 ($ 1,822.14)	PAID	MYR 16,122.17	$1,822.15	MYR 7,835.25	MYR 1,800.00	MYR 0.00
6	Emerging EPC Sdn Bhd	P-5005	QUO-ENE-11003 R05	EEPCSBPO2017367	12-Nov-17	PO-ENE-11003-2017	15L034333	14-Feb-18	DELIVERY TO EMERGING	3-Mar-18	DDP - Puchong	ACR/60082149 ($ 9,553.18)	PAID	MYR 82,270.00	$9,553.16	MYR 41,078.67	MYR 2,000.00	MYR 0.00
7	Flexsys Chemicals Sdn Bhd	P-5006	QUO-ENE-21009 R00	43592022	23-Nov-17	PO-ENE-21009-2017	15L034316	12-Jan-18	DELIVERY TO FLEXSYS	16-Mar-18	DDP - Gebeng	ACR/60081399 ($ 2,008.84)	PAID	MYR 20,620.00	$2,008.84	MYR 8,638.01	MYR 2,500.00	MYR 0.00
8	Flexsys Chemicals Sdn Bhd	P-5007	QUO-ENE-21010 R01	43592023-Rev 1	28-Nov-17	PO-ENE-21010-2017	15L034368	13-Feb-18	DELIVERY TO FLEXSYS	3-Apr-18	DDP - Gebeng	ACR/60082690 ($ 1,719.64)	PAID	MYR 18,710.00	$1,719.64	MYR 7,394.45	MYR 1,800.00	MYR 0.00
								TOTAL PRICE (NOVEMBER 2017)						MYR 574,398.01	$35,935.00	MYR 154,530.50	MYR 11,700.00	MYR 4,708.71
												DECEMBER 2017						
9	FPG Oleochemicals Sdn Bhd	P-5008	QUO-ENE-22011 R01	1M#5000##656	15-Dec-17	PO-ENE-22011-2017	15L034822	31-Jan-18	DELIVERY TO FPG	19-Mar-18	DDP - FPG	ACR/60080412 ($ 3,506.69)	PAID	MYR 100,413.00	$3,506.69	MYR 15,078.77	MYR 800.00	MYR 793.94
10	BASF Petronas Chemicals Sdn Bhd	P-5009	QUO-ENE-22016 R00	4941419447	20-Dec-17	PO-ENE-22016-2017	15L034940	1-Feb-18	DELIVERY TO BASF	10-Apr-18	DDP - Gebeng	ACR/60080547 ($ 263.15)	PAID	MYR 5,010.00	$263.15	MYR 1,131.55	MYR 500.00	MYR 81.58
11	Satin Alpha Oil Field Sdn Bhd	P-5010	QUO-ENE-21006 R03	PO-ENE/PSV/003-17	22-Dec-17	PO-ENE-21006-2017	15L035307	4-May-18	DELIVERY TO SATIN	14-May-18	DDP - Kemaman	ACR/60084994 ($ 89,525.00)	PAID	MYR 1,316,000.00	$89,525.00	MYR 184,357.50	MYR 31,742.00	MYR 0.00
12	ExxonMobil Exploration and Production Ma	P-5011	QUO-ENE-22018 R00	4501356549	18-Dec-17	PO-ENE-22018-2017	15L035008	19-Jan-18	DELIVERY TO EXXON	28-Feb-18	DAP KSB	ACR/60080443 ($ 110.40)	PAID	MYR 2,220.00	$110.40	MYR 474.72	MYR 300.00	MYR 38.74
								TOTAL PRICE (DECEMBER 2017)						MYR 1,423,643.00	$93,405.24	MYR 201,642.53	MYR 33,342.00	MYR 914.25
												JANUARY 2018						
13	ExxonMobil Exploration and Production Ma	P-5012	QUO-ENE-22026 R00	4501318056	5-Jan-18	PO-ENE-22026-2017	15L035143	16-Feb-18	DELIVERY TO EXXON	10-May-18	DAP KSB	ACR/60081242 ($ 954.96)	PAID	MYR 10,800.00	$954.96	MYR 4,106.33	MYR 300.00	MYR 220.32
								TOTAL PRICE (JANUARY 2018)						MYR 10,800.00	$954.96	MYR 4,106.33	MYR 300.00	MYR 220.32
												FEBRUARY 2018						
14	Malaysia LNG Sdn Bhd	P-5014	QUO-ENE-22036 R00	4120193531	1-Feb-18	PO-ENE-22036-2018	15L035952	26-Mar-18	DELIVERY: 7900429910	22-May-18	DDP MLNG	ACR/60082759 ($ 1,849.63)	PAID	MYR 95,630.00	$3,796.86	MYR 16,326.50	MYR 817.73	MYR 857.21
15	Malaysia LNG Sdn Bhd	P-5015	QUO-ENE-22039 R00	4120193534	1-Feb-18	PO-ENE-22039-2018	15L035962	26-Mar-18	DELIVERY: 7900429919	21-May-18	DDP MLNG			MYR 1,570.00	$52.73	MYR 226.74	MYR 510.00	MYR 36.84
16	Flexsys Chemicals (M) Sdn Bhd	P-5016	QUO-ENE-21032 R02	43713506	14-Feb-18	PO-ENE-21032-2018	15L036099	30-Mar-18	DELIVERY TO FLEXSYS	8-May-18	DDP GEBENG	ACR/60083897 ($ 5,924.77)	PAID	MYR 48,163.60	$5,974.77	MYR 25,476.51	MYR 1,000.00	MYR 0.00
17	Transwater API Sdn Bhd	P-5017	QUO-ENE-22017 R01	HQSV00489	19-Feb-18	PO-ENE-22017-2018	15L036229	2-Mar-18	DELIVERY TO TW	13-Mar-18	DDP TW	ACR/60082150 ($ 154.21)	PAID	MYR 2,340.00	$154.22	MYR 663.15	MYR 273.50	MYR 46.83
18	Bumi Wangsa TMS Sdn Bhd	P-5018	QUO-ENE-22031 R00	P-BW-1802-0032	19-Feb-18	PO-ENE-22031-2018	15L036229	2-Mar-18	DELIVERY TO BUMI WANGSA	1-Jun-18	DAP Bumi Wangsa, Labuan	ACR/60082150 ($ 134.94)	PAID	MYR 2,220.00	$134.95	MYR 580.29	MYR 653.50	MYR 61.69
19	Satin Alpha Oil Field Sdn Bhd	P-5019	QUO-ENE-21043 R00	PO-ENE/PSV/001-18	20-Feb-18	PO-ENE-21043-2018	15L036226	10-May-18	DELIVERY TO SATIN	15-May-18	DDP Paka	ACR/60085168 ($1,983.84)	PAID	MYR 45,500.00	$1,983.84	MYR 8,530.51	MYR 8,200.00	MYR 1,000.00
20	Sarawak Shell Berhad	P-5020	QUO-ENE-22027 R00	4513163905	22-Feb-18	PO-ENE-22027-2018	15L036296	11-Jun-18	DELIVERY TO SSPC	15-Jun-18	DAP Labuan	ACR/60083418 ($171.36)	PAID	MYR 6,000.00	$171.36	MYR 736.85	MYR 519.00	MYR 62.79
21	Sarawak Shell Berhad	P-5021	QUO-ENE-22027 R00	4513163906	23-Feb-18	PO-ENE-22027-2018	15L036796	27-Jun-18	DELIVERY TO SSPC	10-Aug-18	DAP Labuan			MYR 18,220.00	$2,126.77	MYR 9,145.11	MYR 3,900.00	MYR 457.26
22	Petronas Chemicals Methanol Sdn Bhd	P-5022	QUO-ENE-22046 R01	4120195101	23-Feb-18	PO-ENE-22046-2018	15L036339	26-Mar-18	DELIVERY TO PCMSB	21-May-18	DDP Labuan	ACR/60084240 ($599.78)	PAID	MYR 17,660.00	$599.76	MYR 2,578.97	MYR 1,700.00	MYR 213.96
23	Transwater API Sdn Bhd	P-5013	QUO-ENE-21007 R01	GOP#05701	21-Nov-17	PO-ENE-21007-2017	15L036335	3-Jun-18	DELIVERY TO TRANSWATER	6-Apr-18	DDP Bintulu	ACR/60087490 ($4,087.71)	PAID	MYR 26,801.10	$4,097.71	MYR 17,620.15	MYR 2,950.00	MYR 0.00
								TOTAL PRICE (FEBRUARY 2018)						MYR 280,209.30	$19,042.37	MYR 81,884.77	MYR 21,523.73	MYR 2,736.57
												MARCH 2018						
24	ExxonMobil Exploration and Production Ma	P-5023	QUO-ENE-22038 R00	4501371902	28-Feb-18	PO-ENE-22038-2018	15L036444	9-Mar-18	DELIVERY TO EXXON	30-Apr-18	DDP KSB	ACR/60082971 ($ 134.94)	PAID	MYR 2,400.00	$134.94	MYR 580.24	MYR 730.00	MYR 65.51
25	Malaysia LNG Sdn Bhd	P-5024	QUO-ENE-22042 R02	4120195511	28-Feb-18	PO-ENE-22042-2018	15L036471	16-Apr-18	DELIVERY TO MLNG	7-Jun-18	DDP MLNG	ACR/60084375 ($ 3,373.44)	PAID	MYR 72,994.86	$3,373.44	MYR 14,506.79	MYR 136,000.00	MYR 12,525.28
26	Prisma Jayabumi Sdn Bhd	P-5025	QUO-ENE-21045 R00	PJ/0491/03/2018	8-Mar-18	PO-ENE-21045-2018	15L036744	27-Apr-18	DELIVERY TO WEHAYA	5-Jun-18	DDP MIri	ACR/60085301 ($ 887.52)	PAID	MYR 8,430.00	$887.52	MYR 3,816.34	MYR 2,300.00	MYR 0.00
27	Prisma Jayabumi Sdn Bhd	P-5026	QUO-ENE-21015 R00	PJ/0493/03/2018	8-Mar-18	PO-ENE-21015-2018	15L036746	27-Apr-18	DELIVERY TO WEHAYA	29-Jun-18	DDP Miri	ACR/60085169 ($ 1,133.32)	PAID	MYR 12,710.00	$1,133.32	MYR 4,873.28	MYR 1,300.00	MYR 0.00
28	Sarawak Shell Berhad	P-5027	QUO-ENE-22047 R02	4513172325	8-Mar-18	PO-ENE-22047-2018	15L036660	25-Apr-18	DELIVERY TO SSPC	29-Jun-18	DAP Labuan	ACR/60084698 ($ 11,581.22)	PAID	MYR 216,734.00	$11,581.22	MYR 49,799.25	MYR 3,000.00	MYR 2,629.96
29	Sabah Shell Petroleum Co.	P-5028	QUO-ENE-22053 R00	4513173750	12-Mar-18	PO-ENE-22053-2018	15L036689	5-Jun-18	DELIVERY TO SSPC	3-Aug-18	DAP Labuan		PAID	MYR 41,920.00	$1,841.38	MYR 7,917.93	MYR 1,600.00	MYR 475.90
30	PETRONAS Chemicals Methanol Sdn Bhd	P-5029	QUO-ENE-22050 R00	4120196362	12-Mar-18	PO-ENE-22050-2018	15L036864	24-Apr-18	DELIVERY TO PCMSB	30-May-18	DDP Labuan	ACR/60085126 ($ 91.80)	PAID	MYR 1,940.00	$91.80	MYR 394.74	MYR 1,006.00	MYR 70.04
31	PETRONAS Gas Berhad	P-5030	QUO-ENE-22049 R01	4120196441	12-Mar-18	PO-ENE-22045-2018 R	15L036464	24-Apr-18	DELIVERY TO PGB	3-Jul-18	DDP Gebeng	ACR/60085125 ($ 5,268.07)	PAID	MYR 74,000.00	$5,268.07	MYR 22,652.70	MYR 2,800.00	MYR 1,272.64
32	Prisma Jayabumi Sdn Bhd	P-5031	QUO-ENE-21037 R00	PJ/0648/03/2018	14-Mar-18	PO-ENE-21037-2018	15L036739	26-Apr-18	DELIVERY TO WEHAYA	6-Jun-18	DDP Miri	ACR/60085300 ($ 1,022.57)	PAID	MYR 7,850.00	$1,022.57	MYR 4,397.05	MYR 2,200.00	MYR 0.00
33	Prisma Jayabumi Sdn Bhd	P-5032	QUO-ENE-22025 R00	PJ/0657/03/2018	14-Mar-18	PO-ENE-22025-2018	15L036737	8-Jun-18	DELIVERY TO WEHAYA	4-Jul-18	DDP Miri	ACR60086454	PAID	MYR 43,070.00	$4,584.91	MYR 19,715.11	MYR 6,000.00	MYR 0.00
34	Prisma Jayabumi Sdn Bhd	P-5033	QUO-ENE-22043 R00	PJ/0650/03/2018 R1	19-Mar-18	PO-ENE-22043-2018	15L036918	4-May-18	DELIVERY TO WEHAYA	9-Jul-18	DDP Miri	ACR/60085128 ($ 5,582.21)	PAID	MYR 72,040.00	$5,582.73	MYR 24,003.59	MYR 2,500.00	MYR 1,325.18
35	Sabah Shell Petroleum Co.	P-5034	QUO-ENE-21034 R01	4513177240	16-Mar-18	PO-ENE-21034-2018	15L036980	30-Oct-18	DELIVERY TO SSPC	17-Oct-18	DAP Labuan			MYR 248,430.00	$22,650.00	MYR 97,395.00	MYR 4,000.00	MYR 10,139.50
36	Malaysia LNG Sdn Bhd	P-5035	QUO-ENE-22051 R01	4120197201	21-Mar-18	PO-ENE-22051-2018	15L036914	4-May-18	DELIVERY TO MLNG	30-May-18	DDP MLNG	ACR/60085127 ($ 2,346.49)	PAID	MYR 38,375.00	$2,346.39	MYR 10,089.48	MYR 2,500.00	MYR 628.47
37	RP Chemical (Malaysia) Sdn Bhd	P-5036	QUO-ENE-21047 R00	45050948	22-Mar-18	PO-ENE-21047-2018	15L037251	27-Apr-18	DELIVERY TO RP	27-Jun-18	DDP RPCM		PAID	MYR 7,110.00	$230.80	MYR 992.44	MYR 2,300.00	MYR 0.00
38	Dermaga Oil & Gas Sdn Bhd	P-5037	QUO-ENE-11020 R03	PO-24-P3112	12-Mar-18	PO-ENE-11020-2018	15L037153	5-Jun-18	DELIVERY TO DERMAGA	20-Jul-18	DDP Dermaga	ACR60087357 ($7,613.24)	PAID	MYR 73,000.00	$7,618.24	MYR 32,736.98	MYR 6,500.00	MYR 0.00
								TOTAL PRICE (MARCH 2018)						MYR 821,033.86	$68,341.83	MYR 291,360.67	MYR 275,238.00	MYR 29,143.49
												APRIL 2018						
40	BASF Petronas Chemicals Sdn Bhd	P-5039	QUO-ENE-21033 R00	4943410189	4-Apr-18	PO-ENE-21033-2018	15L037340	22-Jun-18	DELIVERY TO BASF	22-Aug-18	DDP Gebeng	ACR60088823	PAID	MYR 51,400.00	$5,981.62	MYR 25,720.97	MYR 3,444.00	MYR 1,286.05
41	ExxonMobil Exploration and Production Ma	P-5040	QUO-ENE-22054 R01	4501382590	16-Apr-18	PO-ENE-22054-2018	15L037482	30-May-18	DELIVERY TO EXXON	16-Aug-18	DDP KSB		PAID	MYR 16,330.00	$998.19	MYR 4,292.22	MYR 3,750.00	MYR 402.11
42	Malaysia LNG Sdn Bhd	P-5041	QUO-ENE-22053 R00	4120198841	19-Apr-18	PO-ENE-22053-2018	15L037577	1-Jun-18	DELIVERY TO MLNG	18-Jul-18	DDP MLNG	ACR60088795	PAID	MYR 41,050.00	$1,844.49	MYR 7,931.31	MYR 1,800.00	MYR 476.57
43	Best Wide Engineering (M) Sdn Bhd	P-5041	QUO-ENE-11019 R00	BWE/PO/2018-101/006	24-Apr-18	PO-ENE-11019-2018	15L037943	13-Jul-18	DELIVERY TO BWE	9-Aug-18	DDP BWE			MYR 13,170.00	$1,848.47	MYR 7,948.42	MYR 2,800.00	MYR 0.00
44	ExxonMobil Exploration and Production Ma	P-5043	QUO-ENE-22057 R00	4501385957	30-Apr-18	PO-ENE-22057-2018	15L037944	12-Jun-18	DELIVERY TO EXXON	3-Sep-18	DDP KSB	ACR60087915 ($562.00)	PAID	MYR 8,790.00	$562.00	MYR 2,416.60	MYR 1,500.00	MYR 195.83
								TOTAL PRICE (APRIL 2018)						MYR 130,740.00	$11,214.77	MYR 48,309.51	MYR 15,094.00	MYR 2,360.53
												[illegible]						
39	Transwater API Sdn Bhd	P-5038	QUO-ENE-22029 R00	GOP#05848	10-May-18	PO-ENE-22029-2018	15L038058	25-May-18	DELIVERY TO TRANSWATER		DDP TW		PAID	MYR 1,900.00	$106.38	MYR 453.13	MYR 300.00	MYR 32.66
45	Flexsys Chemicals (M) Sdn Bhd	P-5044	QUO-ENE-21009 R00	43866588	9-May-18	PO-ENE-21009-2018	15L038220	28-Jun-18	DELIVERY TO FLEXSYS	23-Aug-18	DDP Gebeng	ACR60087968 ($1,004.42)	PAID	MYR 10,310.00	$1,004.42	MYR 4,319.01	MYR 2,500.00	MYR 0.00
46	BASF Petronas Chemicals Sdn Bhd	P-5045	QUO-ENE-22061 R00	4943378043	3-May-18	PO-ENE-22061-2018 Rev	15L038228	25-Jun-18	DELIVERY TO BASF	27-Jul-18	DDP Gebeng	ACR60087947 ($7,443.73)	PAID	MYR 99,380.00	$7,443.73	MYR 32,008.04	MYR 3,500.00	MYR 1,775.40

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47	Repsol Oil & Gas Malaysia Limited	P-5046	QUO-ENE-22055 R00	4500158867	7-May-18	PO-ENE-22055-2018	15L038031	10-Aug-18	DELIVERY TO REPSOL	10-Sep-18	DAP KSB	ACR60089031 ACR60089960	PAID	MYR 141,318.67	$2,309.09	MYR 33,149.09	MYR 3,377.45	MYR 1,646.53
48	Wood Group Engineering Sdn Bhd	P-5047	QUO-ENE-11024 R08	20000013	16-May-18	PO-ENE-11024-2018	15P000760	24-Aug-18	DELIVERY TO TOK BALI	20-Sep-18	DDP TOK BALI	ACR60092924	PAID	MYR 456,340.00	$61,157.64	MYR 171,577.85	MYR 13,921.91	MYR 28,549.38
49	BASF Petronas Chemicals Sdn Bhd	P-5048	QUO-ENE-22066 R00	4944306587	21-May-18	PO-ENE-22066-2018	15L038317	3-Jul-18	DELIVERY TO BASF	10-Sep-18	DDP Gebeng	ACR60089002 ($189.71)	PAID	MYR 1,750.00	$189.71	MYR 815.75	MYR 800.00	MYR 60.79
50	ExxonMobil Exploration and Production Ma	P-5049	QUO-ENE-22065 R00	4501391694	24-May-18	PO-ENE-22065-2018	15L038715	19-Jul-18	DELIVERY TO EXXON	15-Sep-18	DDP KSB	ACR60089963	PAID	MYR 34,530.00	$2,456.46	MYR 10,562.78	MYR 3,404.85	MYR 698.56
51	ExxonMobil Exploration and Production Ma	P-5050	QUO-ENE-21061 R01	4501391671	24-May-18	PO-ENE-21061-2018	15L038442	31-Oct-18	DELIVERY TO EXXON	20-Nov-18	DDP KSB			MYR 88,220.00	$18,419.60	MYR 70,604.28	MYR 3,000.00	MYR 7,360.43
							TOTAL PRICE (MAY 2018)							[illegible]	[illegible]	[illegible]	MYR 31,104.21	[illegible]
												JUNE 2018						
52	Prisma Jayabumi Sdn Bhd	P-5051	QUO-ENE-21022 R00	PJ/1190/05/2018	23-May-18	PO-ENE-21022-2018	15L038698	27-Jun-18	DELIVERY TO WEHAYA	26-Sep-18	DDP Miri			MYR 3,530.00	$625.24	MYR 2,500.36	MYR 600.00	MYR 0.00
53	Prisma Jayabumi Sdn Bhd	P-5052	QUO-ENE-22048 R00	PJ/1217/05/2018	25-May-18	PO-ENE-22060-2018	15L039230	10-Aug-18	DELIVERY TO WEHAYA	14-Sep-18	DDP Miri			MYR 11,020.00	$218.21	MYR 944.84	MYR 1,200.00	MYR 107.34
54	Prisma Jayabumi Sdn Bhd	P-5053	QUO-ENE-21049 R01	PJ/1249/05/2018	28-May-18	PO-ENE-21049-2018	15L038873	24-Jul-18	DELIVERY TO WEHAYA	3-Sep-18	DDP Miri	ACR60089164	PAID	MYR 24,157.40	$1,842.72	MYR 7,370.88	MYR 3,530.53	MYR 545.07
55	Prisma Jayabumi Sdn Bhd	P-5054	QUO-ENE-22048 R00	PJ/1253/05/2018	28-May-18	PO-ENE-22060-2018	15L039210	10-Aug-18	DELIVERY TO WEHAYA	17-Sep-18	DDP Miri			MYR 53,960.00	$2,074.82	MYR 8,299.28	MYR 1,300.00	MYR 478.96
56	GS Paperboard & Packaging Sdn Bhd	P-5055	QUO-ENE-22063 R00	5100356458	5-Jun-18	PO-ENE-22063-2018	15L038815	15-Jun-18	DELIVERY TO GS	17-Jul-18	DDP Banting	ACR60087283 ($100.00)	PAID	MYR 1,500.00	$100.00	MYR 400.00	MYR 300.00	MYR 35.00
57	Prisma Jayabumi Sdn Bhd	P-5056	QUO-ENE-21054 R00	PJ/1280/06/2018 R1	8-Jun-18	PO-ENE-21054-2018	15L038871	19-Sep-18	DELIVERY TO WEHAYA	10-Sep-18	DDP Miri			MYR 40,045.60	$3,553.86	MYR 14,215.44	MYR 9,800.00	MYR 1,501.54
58	Prisma Jayabumi Sdn Bhd	P-5057	QUO-ENE-22062 R00	PJ/1359/06/2018	11-Jun-18	PO-ENE-22060-2018	15L039230	10-Aug-18	DELIVERY TO WEHAYA	1-Oct-18	DDP Miri			MYR 20,018.00	$509.41	MYR 2,037.64	MYR 1,300.00	MYR 161.88
59	BASF Petronas Chemicals Sdn Bhd	P-5058	QUO-ENE-22069 R00	4944729179	12-Jun-18	PO-ENE-22060-2018	15L039230	10-Aug-18	DELIVERY TO BASF	19-Sep-18	DDP Gebeng			MYR 28,160.00	$897.44	MYR 3,589.76	MYR 1,100.00	MYR 238.49
60	BASF Petronas Chemicals Sdn Bhd	P-5059	QUO-ENE-22060 R00	4944729186	12-Jun-18	PO-ENE-22060-2018	15L039230	10-Aug-18	DELIVERY TO BASF	19-Sep-18	DDP Gebeng			MYR 97,770.00	$3,950.72	MYR 15,802.88	MYR 1,200.00	MYR 850.14
61	NGL Tech Services Sdn Bhd	P-5060	QUO-ENE-11098 R02	PO-0824-18SAV002-10	11-Jun-18	PO-ENE-11098-2018	15P000774	9-Jul-18	DELIVERY TO NGL	13-Aug-18	DDP Klang Valley			MYR 25,770.00	$2,730.70	MYR 11,722.80	MYR 3,400.00	MYR 0.00
62	Prisma Jayabumi Sdn Bhd	P-5061	QUO-ENE-21068 R00	PJ/1414/06/2018	20-Jun-18	PO-ENE-21068-2018	15L039159	8-Aug-18	DELIVERY TO WEHAYA	5-Sep-18	DDP Miri	ACR60089551	PAID	MYR 27,280.00	$1,665.12	MYR 6,660.48	MYR 4,600.00	MYR 0.00
63	Vyncke	P-5062	QUO-ENE-11051 R04	P101804640	22-Jun-18	PO-ENE-11051-2018	15L039270	6-Nov-18	DELIVERY TO VYNCKE	14-Nov-18	DDP Tanjung Pelepas			MYR 18,476.00	$7,898.76	MYR 31,964.97	MYR 7,000.00	MYR 0.00
64	Vyncke	P-5063	QUO-ENE-11053 R07	P101804633	22-Jun-18	PO-ENE-11053-2018			DELIVERY TO VYNCKE	6-Nov-18	DDP Singapore			MYR 28,476.00				MYR 900.00
65	STOCK BVB	P-5064			26-Jun-18	PO-ENE-22060-2018	15L039223	10-Aug-18		AFTER DEDUCT ITEM FROM 53, 55, 58, 59 & 60						$2,578.35	MYR 10,313.49	MYR 0.00	MYR 3,031.34
								TOTAL PRICE (JUNE 2018)						[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
												JULY 2018						
66	Dialog Plant Services Sdn Bhd	P-5065	QUO-ENE-11009 R05	PO-313-P18298-000219	27-Jun-18	PO-ENE-11009-2018 PO-ENE-11009A-2018	05L001612 15L039353	27-Aug-18	DELIVERY TO DIALOG	28-Sep-18	DDP Pengerang	ACR62002182	PAID	MYR 249,700.00	$47,646.95	MYR 190,587.80	MYR 8,200.00	MYR 19,878.78
67	Prisma Jayabumi Sdn Bhd	P-5066	QUO-ENE-21056 R00	PJ/1534/06/2018	29-Jun-18	PO-ENE-21056-2018	15L039370	24-Aug-18	DELIVERY TO WEHAYA	21-Nov-18	DDP Miri			MYR 26,136.16	$1,885.05	MYR 7,540.20	MYR 4,700.00	MYR 754.02
68	Sapura Fabrication Sdn Bhd	P-5067	QUO-ENE-11017 R08	4000044724	2-Jul-18	PO-ENE-11017-2018	15L039436	23-Nov-18	DELIVERY TO SFSB	31-Dec-18	DDP Lumut			MYR 145,685.00	$27,567.18	MYR 110,228.72	MYR 6,500.00	MYR 1,000.00
69	PETRONAS Gas Berhad	P-5068	QUO-ENE-22070 R01	4120204815	2-Jul-18	PO-ENE-21060-2018	15L039230	10-Aug-18	DELIVERY TO PGB	21-Oct-18	DDP Kerteh			MYR 6,110.00	$195.59	MYR 782.36	MYR 1,200.00	MYR 198.14
70	Petra Resources Sdn Bhd	P-5069	QUO-ENE-11028 R04	RLPO / 3004157	4-Jul-18	PO-ENE-11028-2018	15L039186	12-Sep-18	DELIVERY PETRA	21-Sep-18	DAP Labuan			MYR 50,000.00	$3,743.52	MYR 14,974.08	MYR 6,675.00	MYR 2,164.91
71	Repsol Oil & Gas Malaysia Limited	P-5070	QUO-ENE-21069 R01	4500142751	4-Jul-18	PO-ENE-21069-2018	05L001619	12-Nov-18	DELIVERY TO REPSOL	21-Nov-18	DAP KSB			MYR 42,580.00	$6,368.00	MYR 25,472.00	MYR 1,500.00	MYR 2,887.20
72	Punj Lloyd Sdn Bhd	P-5071	QUO-ENE-18034 R00	PLSB/501185	14-Jul-18	-	-	-						MYR 5,936.00		MYR 0.00		MYR 0.00
73	Prisma Jayabumi Sdn Bhd	P-5072	QUO-ENE-21065 R00	PJ/1660/07/2018 R1	13-Jul-18	PO-ENE-21065-2018	15L039891	28-Aug-18	DELIVERY TO WEHAYA	16-Sep-18	DDP Miri			MYR 68,152.00	$4,823.65	MYR 19,294.60	MYR 2,800.00	MYR 2,209.46
74	Prisma Jayabumi Sdn Bhd	P-5073	QUO-ENE-21036 R01	PJ/1664/07/2018	13-Jul-18	PO-ENE-21036-2018	15L039819	28-Aug-18	DELIVERY TO WEHAYA	13-Sep-18	DDP Miri			MYR 37,310.40	$2,844.44	MYR 11,377.76	MYR 2,500.00	MYR 1,137.78
75	Prisma Jayabumi Sdn Bhd	P-5074	QUO-ENE-21066 R00	PJ/1714/07/2018 R2	17-Jul-18	PO-ENE-21066-2018	15L039753	23-Oct-18	DELIVERY TO WEHAYA	30-Sep-18	DDP Miri	ACR60091888	PAID	MYR 18,442.00	$1,897.52	MYR 7,590.08	MYR 3,300.00	MYR 1,109.01
76	Petra Resources Sdn Bhd	P-5075	QUO-ENE-11040 R04	RLPO / 3004239	20-Jul-18	PO-ENE-11040-2018	15L039837	10-Sep-18	DELIVERY PETRA	20-Sep-18	DAP Labuan			MYR 18,091.25	$0.00	MYR 0.00	MYR 3,575.00	MYR 157.50
77	GS Paperboard & Packaging Sdn Bhd	P-5076	QUO-ENE-22061 R00	5100356971	11-Jun-18	PO-ENE-220614-2018	15L039850	27-Jul-18	DELIVERY TO GS	4-Sep-18	DDP Banting	ACR60088965	PAID	MYR 12,860.00	$785.26	MYR 3,141.04	MYR 1,300.00	MYR 282.05
78	BASF Petronas Chemicals Sdn Bhd	P-5077	QUO-ENE-22074 R00	4945419864	18-Jul-18	PO-ENE-22074-2018	15L039962	5-Sep-18	DELIVERY TO BASF	2-Nov-18	DDP Gebeng			MYR 120,380.00	$8,178.86	MYR 32,715.44	MYR 4,200.00	MYR 3,741.54
79	Prisma Jayabumi Sdn Bhd	P-5078	QUO-ENE-21073 R02	PJ/1792/07/2018	24-Jul-18	PO-ENE-21073-2018	15L039932	23-Oct-18	DELIVERY TO WEHAYA	24-Nov-18	DDP Miri	ACR60092889	PAID	MYR 19,256.00	$1,804.03	MYR 7,216.12	MYR 2,500.00	MYR 971.61
								TOTAL PRICE (JULY 2018)						MYR 815,988.81	$107,730.08	MYR 430,930.30	MYR 51,850.00	MYR 38,703.10
												AUGUST 2018						
80	Dialog Plant Services Sdn Bhd	P-5079	QUO-ENE-11063 R01	PO-312-D40015-000873	2-Aug-18	PO-ENE-11063-2018	15L040164	17-Sep-18	DELIVERY TO DIALOG	26-Sep-18	DDP Pengerang			MYR 23,724.50	$2,756.57	MYR 11,034.28	MYR 4,300.00	MYR 1,533.40
81	Prisma Jayabumi Sdn Bhd	P-5080	QUO-ENE-21079 R01	PJ/2020/08/2018 R2	3-Aug-18	PO-ENE-21079-2018	15L040284	24-Oct-18	DELIVERY TO WEHAYA	30-Sep-18	DDP Miri	ACR60093010	PAID	MYR 45,628.00	$4,685.08	MYR 18,740.32	MYR 4,500.00	MYR 2,324.03
82	Prisma Jayabumi Sdn Bhd	P-5081	QUO-ENE-21080 R00	PJ/2051/08/2018 R2	6-Aug-18	PO-ENE-21080-2018	15L040198	23-Oct-18	DELIVERY TO WEHAYA	30-Sep-18	DDP Miri	ACR60093009	PAID	MYR 16,626.00	$1,795.73	MYR 7,182.92	MYR 2,000.00	MYR 918.29
83	PT ROS Energy Indonesia	P-5082	QUO-ENE-11041 R04	4300013758	6-Aug-18	PO-ENE-11041-2018	15L040282	30-Nov-18		15-Jan-19	DDP Jakarta			MYR 338,528.27	$46,169.79	MYR 184,679.16	MYR 5,000.00	
84	Prisma Jayabumi Sdn Bhd	P-5083	QUO-ENE-21064 R00	PJ/2050/08/2018 R2	6-Aug-18	PO-ENE-21064-2018 R1	15L040283	21-Sep-18	DELIVERY TO WEHAYA	30-Sep-18	DDP Miri			MYR 18,610.96	$958.93	MYR 3,835.72	MYR 2,800.00	MYR 663.57
85	HESS Exploration and Production Malaysia	P-5084	QUO-ENE-11042 R00	4510182381	8-Aug-18	PO-ENE-11042-2018	15L040285	14-Nov-18	DELIVERY TO HESS	31-Dec-18	DDP Tok Bali			MYR 41,710.00	$4,127.70	MYR 16,510.80	MYR 4,500.00	MYR 2,101.08
86	Prisma Jayabumi Sdn Bhd	P-5085	QUO-ENE-21045 R00	PJ/2023/08/2018 R2	3-Aug-18	PO-ENE-21045A-2018	15L040427	14-Sep-18	DELIVERY TO WEHAYA	30-Sep-18	DDP Miri			MYR 10,116.00	$887.52	MYR 3,550.08	MYR 4,350.00	MYR 780.01
87	Dialog Plant Services Sdn Bhd	P-5086	QUO-ENE-11074 R02	PO-312-D40015-000890	8-Aug-18	PO-ENE-11074-2018	15L040406	19-Nov-18	DELIVERY TO DIALOG	15-Nov-18	DDP Pengerang			MYR 90,766.00	$12,375.08	MYR 53,212.84	MYR 5,500.00	MYR 5,871.28

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88	Gas Generators (Malaysia) Sdn Bhd	P-5087	QUO-ENE-11052 R04	GASPGPO18-0281	10-Aug-18	PO-ENE-11052-2018	15L040442	19-Nov-18	DELIVERY TO GAS T&C	5-Dec-18	DDP Balakong	INV-ENE-11052-2018-001 INV-ENE-11052-2018-002		MYR 42,180.20	$6,532.21	MYR 26,368.84	MYR 3,500.00	MYR 2,946.68
89	Prisma Jayabumi Sdn Bhd	P-5088	QUO-ENE-22091 R01	PI/2157/08/2018	15-Aug-18	PO-ENE-22091-2018	15L040405	20-Aug-18	DELIVERY TO WEHAYA	24-Aug-18	DDP Miri	ACR60089875	PAID	MYR 3,680.00	$135.99	MYR 543.96	MYR 800.00	MYR 201.59
90	BASF Petronas Chemicals Sdn Bhd	P-5089	QUO-ENE-22086 R00	9340884227	8-Aug-18	PO-ENE-22086-2018	15L040625	5-Oct-18	DELIVERY TO BASF	15-Nov-18	DDP Gebeng			MYR 7,880.00	$515.92	MYR 2,063.68	MYR 2,700.00	MYR 714.55
91	Dialog Plant Services Sdn Bhd	P-5090	QUO-ENE-11078 R01	PO-312-DH0015-000314	18-Aug-18	PO-ENE-11078-2018	15L040653	19-Dec-18	DELIVERY TO DIALOG	20-Dec-18	DDP Pengerang	ACR60092890	PAID	MYR 27,460.00	$2,392.26	MYR 9,569.04	MYR 4,000.00	MYR 1,356.90
92	STOCK ENE (EASTMAN)	P-5091	-	-	27-Aug-18	PO-ENE-22071-2018	15L040733	12-Oct-18			DDP ENE				$6,680.54	MYR 26,722.16	MYR 2,500.00	MYR 4,583.32
93	Sarawak Shell Berhad	P-5092	QUO-ENE-22079 R01	4511356652	20-Aug-18	PO-ENE-22079-2018 R1	15L040711	19-Oct-18	DELIVERY TO SSPC	14-Oct-18	DAP Labuan			MYR 52,341.20	$3,542.60	MYR 14,170.40	MYR 5,000.00	MYR 2,575.58
94	Dermaga Oil & Gas Sdn Bhd	P-5093	By email dated 15-8-18	PO-97-P3122	21-Aug-18	-	-	-	-	-	-			MYR 1,100.00	$0.00	MYR 0.00	MYR 0.00	MYR 0.00
95	FAST VALVE	P-5094	-	-	-	PO-ENE-20000-2018	15L040737	24-Oct-18	-	-	-	ACR60092891	PAID	-	$6,951.80	MYR 27,807.20	MYR 5,000.00	MYR 3,289.72
								TOTAL PRICE (AUG 2018)						MYR 720,751.13	$100,569.72	MYR 405,991.40	MYR 54,350.00	MYR 28,681.23
96	Prisma Jayabumi Sdn Bhd	P-5095	QUO-ENE-21049 R01	PI/2362/09/2018	5-Sep-18	PO-ENE-21049A-2018	15L040894	25-Oct-18	DELIVERY TO WEHAYA	12-Dec-18	DDP Miri	ACR60093093	PAID	MYR 34,157.40	$1,843.72	MYR 7,370.88	MYR 3,530.53	MYR 1,090.14
97	ExxonMobil Exploration and Production Ma	P-5096	QUO-ENE-22095 R00	4501417177	12-Sep-18	PO-ENE-20003-2018	15L041046	26-Oct-18	DELIVERY TO EXXON	14-Jan-19	DDP KSB	ACR60093493	PAID	MYR 5,650.00	$118.45	MYR 473.80	MYR 2,800.00	MYR 327.36
98	FPG Oleochemicals Sdn Bhd	P-5097	QUO-ENE-21096 R01	1F4500050908	12-Sep-18	PO-ENE-21096-2018	15L041033	30-Nov-18	DELIVERY TO FPG	13-Dec-18	DDP FPG			MYR 23,212.00	$1,333.58	MYR 5,334.32	MYR 3,500.00	MYR 883.43
99	FPG Oleochemicals Sdn Bhd	P-5098	QUO-ENE-21097 R01	1F4500050907	12-Sep-18	PO-ENE-21097-2018	15L041032	31-Oct-18	DELIVERY TO FPG	13-Dec-18	DDP FPG			MYR 19,994.00	$1,080.61	MYR 4,322.44	MYR 2,750.00	MYR 707.24
100	STOCK ENE	P-5099	-	-	13-Sep-18	PO-ENE-20001-2018	15L041086	26-Oct-18			AFTER DEDUCT ITEM FROM 97 & 101				$6,182.81	MYR 24,731.24	MYR 9,500.00	MYR 2,823.12
101	VOSS Engineering	P-5100	QUO-ENE-22067 R080	VS130162-1	20-Sep-18	PO-ENE-20003-2018	15L041046	28-Oct-18	DELIVERY TO VOSS	10-Nov-18	DDP VOSS	ACR60092891	PAID	MYR 10,030.00	$313.37	MYR 1,253.48	MYR 600.00	MYR 185.35
								TOTAL PRICE (SEPT 2018)						MYR 93,043.40	$10,871.54	MYR 43,486.16	MYR 16,680.53	MYR 6,016.47
102	BASF Petronas Chemicals Sdn Bhd	P-5101	QUO-ENE-22098 R00	4946793670	27-Sep-18	PO-ENE-22098-2018	15L041490	14-Nov-18		30-Jan-19	DDP Gebeng			MYR 44,650.00	$3,172.11	MYR 13,322.86	MYR 2,750.00	MYR 1,607.29
103	PETRONAS Gas Berhad	P-5102	QUO-ENE-22096 R00	4130210184	26-Sep-18	PO-ENE-22096-2018	15L041485	5-Oct-18	DELIVERY TO PGB	9-Oct-18	DDP PGB Seremban			MYR 15,250.00	$583.48	MYR 2,333.92	MYR 1,500.00	MYR 900.00
104	NGL Tech Services Sdn Bhd	P-5103	QUO-ENE-11076 R00	PO-1004-18SRV002-65	01-0-2018	PO-ENE-11076-2018	15L041523	29-Nov-18		7-Jan-19	DDP Klang Valley			MYR 25,000.00	$2,939.98	MYR 11,347.92	MYR 4,000.00	MYR 1,474.79
105	Sebora Pinewell Sdn Bhd	P-5104	QUO-ENE-11062 R04	4000041287(1)	28-Sep-18	PO-ENE-11062-2018	15P000808	6-Feb-19	DELIVERY TO LABUAN	15-Mar-19	DAP Labuan			MYR 240,000.00	$37,475.00	MYR 157,395.00	MYR 5,500.00	MYR 18,089.50
106	BASF Petronas Chemicals Sdn Bhd	P-5105	QUO-ENE-22103 R00	4946903761	5-Oct-18	PO-ENE-22103-2018	15L041631	21-Nov-18	DELIVERY TO BASF	11-Jan-19	DDP Gebeng			MYR 6,860.00	$318.32	MYR 1,509.14	MYR 1,350.00	MYR 308.91
107	FPG Oleochemicals Sdn Bhd	P-5106	QUO-ENE-21040 R01	1F4450049186	8-Oct-18	PO-ENE-21040-2018	15L041698	26-Dec-18	DELIVERY TO FPG	11-Jan-19	DDP Kuantan			MYR 56,840.00	$4,643.45	MYR 19,502.49	MYR 4,000.00	MYR 2,360.25
108	REMOVE TO DECEMBER ITEM																	
109	ExxonMobil Exploration and Production Ma	P-5108	QUO-ENE-22111 R00	4501436374	22-Oct-18	PO-ENE-20002-2018	15L042127	14-Dec-18	DELIVERY TO EXXON	6-Jan-19	DDP KSB			MYR 6,500.00	$118.45	MYR 497.48	MYR 1,000.00	MYR 149.75
110	PETRONAS Gas Berhad	P-5109	QUO-ENE-22094 R00	4130211307	10-Oct-18	PO-ENE-20002-2018	15L042127	14-Dec-18	DELIVERY TO PGB	18-Feb-19	DDP PGB Kulim			MYR 187,010.00	$1,262.50	MYR 55,352.50	MYR 2,800.00	MYR 6,035.35
111	PETRONAS Gas Berhad	P-5110	QUO-ENE-22109 R00	4130212261	23-Oct-18	PO-ENE-20007-2018	15L042127	14-Dec-18	DELIVERY TO PGB	15-Feb-19	DDP PGB Kerteh			MYR 2,400.00	$69.71	MYR 292.78	MYR 100.00	MYR 39.28
112	Asia Propel Sdn Bhd	P-5111	QUO-ENE-11079 R02	PO/2018/APSB/732	26-Oct-18	PO-ENE-11079-2018	15L042080	8-Jan-19	DELIVERY TO ASIA PROPEL	27-Mar-19	CIF Port Klang			MYR 94,253.60	$11,980.54	MYR 47,922.16	MYR 10,000.00	MYR 5,392.12
113	STOCK ENE	P-5112			31-Oct-18	PO-ENE-20002-2018	15L042127	14-Dec-18			AFTER DEDUCT ITEM FROM 109, 110, 111 & 113				$6,894.21	MYR 27,576.84	MYR 6,000.00	MYR 5,800.00
								TOTAL PRICE (OCT 2018)						MYR 678,763.60	$68,496.75	MYR 338,005.10	MYR 38,340.00	MYR 38,128.23
114	Amenergy (M) Sdn Bhd	P-5113	QUO-ENE-11080 R03	17601/EG/SU/PO 099	5-Nov-18	PO-ENE-11080-2018	15L042423	14-Jan-19	DELIVERY TO SEREMBAN	7-Mar-19	DDP Amenergy			MYR 78,300.00	$6,244.19	MYR 22,025.60	MYR 9,000.00	MYR 2,742.56
115	Satin Alpha Oil Field Sdn Bhd	P-5114	QUO-ENE-22059 R05	PO-ENE/PSW/002-18	7-Nov-18	PO-ENE-21059-2018	15L042494	18-Mar-19	DELIVERY TO SATIN	23-Apr-19	DDP Pato			MYR 169,857.01	$18,119.74	MYR 76,102.91	MYR 5,500.00	MYR 7,940.39
116	BASF Petronas Chemicals Sdn Bhd	P-5115	QUO-ENE-22117 R00	4947631394	9-Nov-18	PO-ENE-20004-2018	15L042716	9-Jan-19	DELIVERY TO BASF	15-Feb-19	DDP Gebeng			MYR 5,120.00	$213.71	MYR 897.58	MYR 1,500.00	MYR 179.76
117	PETRONAS Gas Berhad	P-5116	QUO-ENE-22105 R01 QUO-ENE-22110 R01	4120213541	7-Nov-18	PO-ENE-20004-2018	15L042736	9-Jan-19	DELIVERY TO PGB	18-Feb-19	DDP Kerteh			MYR 132,368.00	$3,927.14	MYR 16,493.99	MYR 1,500.00	MYR 1,730.40
118	Techinfinity Engineering Sdn Bhd	P-5117	QUO-ENE-11066 R07	PO-TIE-18-383	13-Nov-18	PO-ENE-11066-2018	15L042563	28-Jan-19	DELIVERY TO MERU	19-Mar-19	CIF Port Klang			MYR 80,000.00	$10,864.82	MYR 45,632.24	MYR 10,000.00	MYR 5,163.22
119	Prisma Jayabumi Sdn Bhd	P-5118	QUO-ENE-21101 R01	PI/2858/11/2018	16-Nov-18	PO-ENE-20002-2018	15L042127	14-Dec-18	DELIVERY TO WEHAYA	25-Jan-19	DDP Miri			MYR 66,301.30	$2,573.94	MYR 10,810.55	MYR 3,100.00	MYR 1,291.05
120	Pengerang Refining Company Sdn Bhd	P-5119	QUO-ENE-22108 R01	P412212405	31-Oct-18	-	-	-	DELIVERY TO PENGERANG	18-Feb-19	DDP Pengerang			MYR 360.00	$0.00	MYR 0.00	MYR 0.00	MYR 0.00
121	ExxonMobil Exploration and Production Ma	P-5120	QUO-ENE-22106 R00	4501432560	14-Nov-18	PO-ENE-22106-2018	15L042587	3-Jan-19	DELIVERY TO EXXON	20-Feb-19	DDP KSB			MYR 2,510.00	$100.00	MYR 420.00	MYR 150.00	MYR 51.00
122	FAST VALVE	P-5121	-	-	14-Nov-18	PO-ENE-20003-2018	15L042512	11-Feb-19	[redacted]						$17,743.67	MYR 74,523.41	MYR 6,000.00	MYR 8,052.34
123	WZS Misi Setia Sdn Bhd	P-5121	QUO-ENE-11088 R00	MSDG-M1808-M06-0035	21-Nov-18	PO-ENE-11088-2018	15L042750	24-Feb-19	DELIVERY TO MISI	10-Apr-19	DDP Miri			MYR 76,564.00	$8,436.56	MYR 19,633.55	MYR 8,000.00	MYR 4,503.36
124	Kaeser Kompressoren Sdn Bhd	P-5123	QUO-ENE-11100 R00	4506805894	27-Nov-18	PO-ENE-11100-2018	15L042743	11-Dec-18	DELIVERY TO KAESER	10-Feb-19	DDP Shah Alam			MYR 19,000.00	$2,057.04	MYR 8,639.57	MYR 3,000.00	MYR 1,043.96
125	Petronas Chemicals Ammonia Sdn Bhd	P-5124	QUO-ENE-22116 R01	4120214474	22-Nov-18	PO-ENE-20005-2018	15L043252	6-Feb-19	DELIVERY TO KERTEH	28-Feb-19	DDP Kerteh			MYR 78,760.00	$1,972.09	MYR 8,286.94	MYR 4,000.00	MYR 1,068.69
126	FAST STOCK	P-5125	-	-	27-Nov-18	PO-ENE-20004-2018	15L042716	9-Jan-19	[redacted]						$5,811.10	MYR 24,406.62	MYR 5,000.00	MYR 2,940.60
126	Petronas Chemicals Ammonia Sdn Bhd	P-5126	QUO-ENE-22116 R02	4120214821	27-Nov-18	PO-ENE-20005-2018	15L043252	6-Feb-19	DELIVERY TO KERTEH	5-Mar-19	DDP Kerteh			MYR 99,890.00	$7,086.68	MYR 29,764.05	MYR 4,000.00	MYR 3,216.41
								TOTAL PRICE (NOV 2018)						MYR 1,147,150.21	$85,151.67	MYR 357,637.01	MYR 62,150.00	MYR 38,832.70

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127	ZSR Vortices Sdn Bhd	P-5107	C&O-BNE-11080 R07	ENE/PO/0126-18	4-Dec-18	PO-BNE-11080-2018	1SL042083	28-Mar-19	FARRIS REVISED EX-WORK 13-MAY	15-Mar-19	DDP ZSR T'ganu			MYR 225,000.00	$25,691.42	MYR 107,651.96	MYR 6,450.00	MYR 11,152.20
128	FAST STOCK	P-5127	-	-	20-Dec-18	PO-ENE-20005-2018	1SL043252	6-Feb-19							$9,075.73	MYR 38,113.07	MYR 3,500.00	MYR 4,021.81
								TOTAL PRICE (DEC 2018)						MYR 225,000.00	$34,707.15	MYR 145,770.03	MYR 9,950.00	MYR 15,174.00
								GRAND TOTAL (OCT 2017 TO DEC 2018)						MYR 8,282,267.39	$771,581.01	MYR 3,776,002.34	MYR 858,151.60	

FAST ORDER	22060	$	15,442.39	TOTAL (USD)	$78,790.85
	22071	$	4,680.54		
	20000	$	8,951.80		
	20001	$	6,182.81		
	20002	$	10,918.81		
	20003	$	17,743.67		
	20004	$	3,811.10		
	20005	$	9,059.73		

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Payment Term	Invoice Details	Payment Received	Item	EQP	PSP		INVOICE ENE
90 days	INV-ENE-18001-2017-001 (31-Feb-18) INV-ENE-18003-2017-002 (21-Feb-18) INV-ENE-18001-2017-003 (22-Mar-18)		1 unit PSV 26DA15L-151/54/SP SP-Add Tag + Painting	34%	MYR 9,345.84	Valve arrived ENE via CHL dated 13-2-18. Test at ENE Workshop on 14-Feb 2018 Deliver to customer 16-Feb 2018.	ML -done MQ -done MB - done
					MYR 9,345.84	INVOICE DONE	
30 days	INV-ENE-22001-2017-001 (28-Feb 2018)		Spare Parts	75%	MYR 265,486.91	Pending delivery to SIPC by forwarder. Deliver to SIPC 16-Feb 2018 - pending DO from forwarder. READY TO INVOICE	Done
45 days	INV-ENE-22007-2018-001		Spare Parts	70%	MYR 8,543.77	Item had deliver to customer	DONE
45 days	INV-ENE-22008-2018-001		Spare Parts	67%	MYR 63,782.93	Item had deliver to customer	DONE
COD	INV-ENE-21008-2017-001 (23-Feb 2018)		3 unit 2700 series 27DA23-220	40%	MYR 6,486.99	Aspect to arrive Aseda week 12 - 15 Feb 2018 Pending DO from forwarder PAYMENT DONE	Done
50% down payment 50% before delivery	INV-ENE-21009-2017-002 (28-Feb 2018)	YES	3 unit 2700 series 4 unit 2600 series	48%	MYR 39,191.53	Aspect to arrive Emerging 6-March 2018 PAYMENT DONE	Done
30 days	INV-ENE-21009-2017-003 (27-Feb-18)		1 unit: 27DA23-120/54/SP 1 unit: 27CA23-120/54/SP	46%	MYR 9,481.99	Collection done last Friday (9-2-18). Target to arrive ENE 16-Feb 2018. Ready to deliver Deliver to Flexsys 26-Feb-18	Done EH 680956771MY
30 days	INV-ENE-21010-2017-003 (22-Mar-18)		1 unit: 26GC104-120/SP	46%	MYR 8,515.55	Delivered to Flexsys 21 March 2018 INVOICE DONE	Done
					MYR 404,488.89		
60 days	INV-ENE-22011-2017-001 (27-Feb-18)		Spare Parts	89%	MYR 63,740.29	Deliver to BAT 26-Feb-18	Done EH 680956984MY
60 days	INV-ENE-22016-2017-001 (27-Feb-18)		Spare Parts	68%	MYR 3,296.88	Deliver to BASF 26-Feb-18	Done
40 days	INV-ENE-21006-2017-001B (15% date 5-4-18) INV-ENE-21006-2017-001C (80% dated 16-3-18) INV-ENE-21006-2017-001D (15% dated 31 May 2018)		11 unit 3600 series	66%	MYR (Pt) 300.58	Delivery by Logistic 16-3-18	Done
30 days	INV-ENE-21018-2017-001 (27-Feb-18)		Spare Parts	61%	MYR 1,406.54	Deliver to Exxon 26-Feb-18	Done
					MYR 870,744.20		
30 days	INV-ENE-22026-2017-001 (27-Feb-18)		Spare Parts	57%	MYR 6,179.38	Deliver to Exxon 26-Feb-18	Done EH 680956787MY
					MYR 6,179.38		
30 days	INV-ENE-22036-2018-001 (23-4-18) INV-ENE-22036-2018-002 (06-6-18)	PAID	Spare Parts	81%	MYR 77,628.56	Deliver to Exxon 20-Apr-18	Done
30 days	INV-ENE-22039-2018-001 (23-4-18)	PAID	Spare Parts	54%	MYR 896.42	Deliver to Exxon 20-Apr-18	Done
60 days	INV-ENE-21032-2018-001		1 unit: 26NA12-120/SP 1 unit: 26LA12L-120/SP	33%	MYR 15,687.29	Delivery to Flexsys 18-April 2018	Done
30% dow npe yment 30% before delivery	INV-ENE-22037-2018-0001		Spare Parts Gasket set	58%	MYR 1,356.52	Delivery to Transwater 13-March 2018	Done
50% down payment 50% before delivery	INV-ENE-22031-2018-001 INV-ENE-22031-2018-002	YES - 50% down payment YES - 50% before delivery	Spare Parts Gasket set	42%	MYR 924.53	Delivery to Suns Wangsa 14-April 2018	Done
40 days	INV-ENE-22043-2018-001		1 unit: 26DC10L-120/SP	72%	MYR 32,769.49	Delivery to Seth/NKS3 KSB 16-May 2018	Done
30 days	INV-ENE-22027-2018-001		Spare Parts Gasket set)	78%	MYR 4,681.36	Delivery to SIPC 23-May 2018	Done
30 days	INV-ENE-22027-2018-002		1 unit: 26DB12-120/SP	66%	MYR 25,717.63	Delivery to SIPC 10-Aug 2018	Done
30 days	INV-ENE-21046-2018-001		Spare Parts (Orina set)	65%	MYR 8,167.08	Delivery to PCMSB 26-April 2018	Done
30% down payme nt 70% before delivery	INV-ENE-21007-2017-001 INV-ENE-21007-2017-002	YES	1 unit: 26DA13L-120/DB	19%	MYR 6,231.95	Delivery to Bintulu 1-Oct 2018	Done
					MYR 174,888.63		
30 days	INV-ENE-22038-2018-001		Spare Parts	45%	MYR 1,024.15	Delivery to Exxon 18-April 2018	Done
30 days	INV-ENE-22042-2018-001 INV-ENE-22043-2018-001		Spare Parts	-260%	(MYR 180,036.22)	Delivery to MLNG 21-May 2018	Done
30% upon order, 70% upon delivery	INV-ENE-21045-2018-001 INV-ENE-21045-2018-002	YES - 30% down payment	1 unit: 26EA10-120	27%	MYR 2,312.68	Delivery to Wahaya 23-May 2018	Done
50% upon order, 70% upon delivery	INV-ENE-27015-2016-001 INV-ENE-21035-2018-001	YES - 30% down payment	1 unit: 26EA80-120 1 unit: 27CA23-120	44%	MYR 5,656.72	Delivery to Wahaya 27-June 2018	Done
30 days	INV-ENE-22047-2018-001		Spare Parts	74%	MYR 161,254.79	Delivery to SIPC 23-May 2018	Done
30 days	INV-ENE-22053-2018-001		Spare Parts	76%	MYR 31,926.17	Delivery to SIPC 6-July 2018	
30 days	INV-ENE-22050-2018-001		Spare Parts	24%	MYR 469.22	Delivery to PCMSB 18-May 2018	Done
30 days	INV-ENE-22045-2018-001 (Rejected) INV-ENE-22043-2018-001		Spare Parts	64%	MYR 47,174.66	Delivery to PGB 18-May 2018	Done
30% upon order, 70% upon delivery	INV-ENE-22017-2018-001 INV-ENE-21037-2018-002		1 unit: 26EA12-170	16%	MYR 1,252.95	Delivery to Wahaya 23-May 2018	Done
30% upon order, 70% upon delivery	INV-ENE-21018-2018-001 INV-ENE-22024-2018-001		1 unit: 26MB12K-120/SP	62%	MYR 17,154.89	Delivery to Wahaya 7-Aug 2018	Done
30% upon order, 70% upon delivery	INV-ENE-22043-2018-001 INV-ENE-22042-2018-002		Spare Parts	61%	MYR 44,211.23	Delivery to Wahaya 23-May 2018	Done
30 days	INV-ENE-21034-2019-001		1 unit: 28HC14K-16C/N1/SP	41%	MYR 101,347.40	TO BE DELIVERED ENE 25/1/19	Done
30 days	INV-ENE-22051-2018-001		Spare Parts	68%	MYR 25,156.05	Delivery to MLNG 21-May 2018	Done
30 days	INV-ENE-21047-2018-001		1 unit: 27CA33-M20	54%	MYR 3,827.36	Delivery to BP Chemical 30-May 2018	Done
30% upon Purchase Order 30 days: 60% before delivery & 10% after delivery Demage	INV-ENE-21020-2018-001 INV-ENE-21020-2018-002 INV-ENE-21020-2018-003		2 unit: 26DA13-121/N1/SP 1 unit: 26LA13-121/N1/SP	47%	MYR 54,163.07	Delivery to Demage 19-Sept 2018	M1-Done M2-Done M3-Done
					MYR 387,294.45		
60 days	INV-ENE-21003-2018-001		1 unit: 26QA106-171/SP	57%	MYR 18 943.39	Delivery to BASF 31-July 2018	Done
30 days	INV-ENE-22054-2018-001		Spare Parts	48%	MYR 7,885.67	Delivery to Exxon 12-July 2018	Done
30 days	INV-ENE-22053-2018-001		Spare Parts	76%	MYR 31,042.13	Delivery to MLNG 12-July 2018	Done
50% down payment 50% before delivery	INV-ENE-21019-2018-001 INV-ENE-21019-2018-002	YES	1 unit: 26DA13L-120/SP	18%	MYR 2,421.58	Delivery to BWE 20-Aug 2018	Done
30 days	INV-ENE-22057-2018-001		Spare Parts	52%	MYR 4,677.57	Delivery to Exxon 12-July 2018	Done
					MYR 66,975.83		
50% down payment 50% before delivery	INV-ENE-22029-2018-0001 INV-ENE-22029-2018-0002	YES	Spare Parts (Gasket set)	64%	MYR 1,214.21	Delivery to TW 26-July 2018	Done
30 days	INV-ENE-21009-2018-001		1 unit: 27DA23-120/54/SP	34%	MYR 3,490.99	Delivery to Flexsys 24-July 2018	Done
60 days	INV-ENE-22041-2018-001		Spare Parts	62%	MYR 62,206.56	Delivery to BASF 24-July 2018	Done

60 days	INV-ENE-22086-2018-001		Spare Parts	73%	MYR 102,541.81	Delivery to Repsol completed 6-Sept 2018	Done
90 days -90% upon delivery -10% upon final doc	INV-ENE-11024-2018-001 INV-ENE-11024-2018-002		3 unit: 260B15B-920/D4N/SP 1 unit: 260B15L-920/D4N/SP 1 unit: 260B14L-920/D4N/SP	31%	MYR 141,490.26	Delivery 3 units to Tok Bali dated 18-Oct 2018 Delivery 6 units to Tok Bali dated 13-Nov 2018	M1-Done M2-Done
60 days	INV-ENE-22066-2018-001		Spare Parts	54%	MYR 2,013.46	Delivery to BASF 24-July 2018	Done
30 days	INV-ENE-22065-2018-001		Spare Parts	62%	MYR 21,851.99	Delivery to EXXON 31-July 2018	
30 days	INV-ENE-21061-2018-001		2unit: 260B13-120/D4/SP	6%	MYR 7,050.29	Arrangement By Sean Exported to KSB on 6-Dec 2018 Delivery to KSB on 12-Dec 2018	Done
					MYR 844,786.87		
100% upon delivery	INV-ENE-21022-2018-001		1 unit: 23FA45-M20	12%	MYR 423.04	Delivery to Wehaya 13-Aug 2018	Done
30% down payment 70% before delivery	INV-ENE-22048-2018-001 INV-ENE-22048-2018-002		Spare Parts	80%	MYR 8,767.92	Item 21 - 24 Delivery to Wehaya 8-Oct 2018	Done
30% down payment 70% before delivery	INV-ENE-21049-2018-001 INV-ENE-21049-2018-002		Spare Parts	66%	MYR 22,710.92	Delivery to Wehaya 10-Aug 2018	Done
30% down payment 70% before delivery	INV-ENE-22048-2018-001A INV-ENE-22048-2018-001B		Spare Parts	82%	MYR 43,985.76	Item 23 - 35 Delivery to Wehaya 8-Oct 2018	Done
100% upon delivery	INV-ENE-21063-2018-001 INV-ENE-21063-2018-002		Spare Parts	58%	MYR 765.00	Delivery to Banting 12-July 2018	Done
30% down payment 70% before delivery	INV-ENE-21054-2018-001 INV-ENE-21054-2018-001		1 unit: 26EA44-121/N1/SP 1 unit: 26GA10A-121/SP	48%	MYR 18,128.62	Revised PO dated 28.08.18 Invoice balance from INV-0081 Delivery to Wehaya 8-Oct 2018	Done
30% down payment 70% before delivery	INV-ENE-22062-2018-001 INV-ENE-22062-2018-002	YES - 30% down payment	Spare Parts	81%	MYR 16,616.46	Item 19 & 20 Delivery to Wehaya 8-Oct 2018	Done
60 days	INV-ENE-21069-2018-001		Spare Parts	83%	MYR 24,130.75	Item 1 & 18 Delivery to BASF 5-Oct 2018	Done
60 days	INV-ENE-22060-2018-001		Spare Parts	82%	MYR 79,916.98	Item 1 & 2 Delivery to BASF 5-Oct 2018	Done
45 days M1- 10% upon ack. PO M2- 20% before delivery M3- 60% after delivery M4- 10% final doc	INV-ENE-11038-2018-001 INV-ENE-11038-2018-002 INV-ENE-11038-2018-003 INV-ENE-11038-2018-004		1 unit: 260A10-120/N1/SP 1 unit: 260A10-120/N4/SP SPARE - GASKET 2 SET	40%	MYR 10,247.20	* Painting done (RM 800) * FAT at ENE on 10 & 13 August * Pending gate pass to deliver the valve (14/8/18) * Delivery to NGL 21-Aug 2018	M1-Done M2-Done M3-Done M4-Done
30% down payment 70% before delivery	INV-ENE-21068-2018-001 INV-ENE-21068-2018-002		1 unit: 260A16A-120/SP	59%	MYR 16,019.51	Delivery to Wehaya 24-August 2018	Done
10% down payment 90% before delivery	INV-ENE-11051-2018-001 INV-ENE-11051-2018-002		2 unit: 42J412-170/SP	28%	MYR 7,991.52	Arrangement By Sean - Delivery partial Exported to Al on 8-Dec 2018 Pending DO	M1-Done M2-Done
10% down payment 90% before delivery	INV-ENE-11053-2018-001 INV-ENE-11053-2018-002		2 unit: 42J412-170/SP	28%	MYR 7,991.52	Arrangement By Sean - Delivery complete Pending DO	M1-Done M2-Done
			Spare Parts		MYR 258,703.21		
60 days 10% of PO acknowledgement 10% after approved GAD 70% after delivery 10% after final doc	INV-ENE-11009-2018-001 INV-ENE-11009-2018-002 INV-ENE-11009-2018-003 INV-ENE-11009-2018-004		87 units 2300 series 8 units 2600 series 2 unit 3600 series Commissioning Spares (Gasket & Oring)	12%	MYR 31,083.42	ADDITIONAL TAGGING LOCAL Delivery to Dialog by 10-Oct 2018	M1-Done M2-Done M3-Done M4-Done
30% down payment 70% before delivery	INV-ENE-21056-2018-001 INV-ENE-21056-2018-002		1 unit: 260A14L-121/SP	50%	MYR 13,181.94	Delivery to Wehaya by 14-Sept 2018	Done
60 days 10% of submission key doc 80% upon delivery 10% after final doc	INV-ENE-11017-2018-001 INV-ENE-11017-2018-002		3 units 260A15L-920/S3/SP 3 units 260C12-120/S3/SP 2 unit 26FD12S-120/S3/SP Commissioning Spares (Gasket & Oring)	16%	MYR 23,866.28	CTC (RM 1200) & SAT (RM 480) TO BE LOCALLY DELAY FROM FACTORY: EX-WORK 21 DEC 2018 DELIVERY TO SUMMIT COMPLETED	M1-done M1-done
30 days	INV-ENE-21070-2018-001		Spare Parts	64%	MYR 3,929.40	Item 55, 58, 61, 64 & 67 Delivery to PGB 5-Oct 2018	Done
15% upon approval GA 35% upon delivery AWB 40% after SAT and DO 10% upon final doc	INV-ENE-11028-2018-001 INV-ENE-11028-2018-002 INV-ENE-11028-2018-003 INV-ENE-11028-2018-004		3 units 260A14L-120/SP Commissioning Spares (Gasket 3 set)	34%	MYR 17,116.01	CTC (RM 1200), PAINTING (2000) & SAT (RM 1800) TO BE LOCALLY DONE Delivery to Petra 12-Oct 2018	M1-done M2-done M3-done
30 days	INV-ENE-21069-2018-001		4 units 260A15L-920/SP	20%	MYR 8,720.80	SAT IN ENE - COMPLETED ON 09-11-18 Expected to KSB on 5-Dec 2018 by ENE Delivery to Repsol 5-Dec 2018	Done
30 days			Services	66%	MYR 3,906.00	Service	Done
30 days	INV-ENE-21065-2018-001		1 unit: 26HB14-120/SP 1 unit: 260B14-120/SP	64%	MYR 41,847.94	Revised PO dated 28.08.18 Delivery to Wehaya 8-Oct 2018	Done
30 days	INV-ENE-21036-2018-001		1 unit: 260B12-120/S3/SP	60%	MYR 22,294.86	Delivery to Wehaya by 14-Sept 2018	Done
30 days	INV-ENE-21066-2018-001		1 unit: 26HB12-121/SP	34%	MYR 6,242.91	Delivery to Wehaya by 1-Nov 2018	Done
30 days 30% upon order 60% upon before delivery 10% after delivery	INV-ENE-11040-2018-001 INV-ENE-11040-2018-002 INV-ENE-11040-2018-003		1 units 27DT33H-520/SP	69%	MYR 11,368.75	SAT (RM 1280) TO BE LOCALLY DONE Delivery to Petra 17-Oct 2018	M1-Done M2-Done M3-Done
50% down payment 30 days of 50% upon delivery	INV-ENE-22063A-001 INV-ENE-22063A-002		Spare Parts	51%	MYR 6,216.81	Delivery to Banting 31-July 2018	Done
60 days	INV-ENE-22074-2018-001		Spare Parts & Complete Valves	66%	MYR 79,213.02	Delivery to BASF 5-Oct 2018	Done
30 days	INV-ENE-21073-2018-001		1 unit: 260B12-120/SP	44%	MYR 8,568.27	Delivery to Wehaya by 1-Nov 2018	Done
					MYR 276,848.81		
60 days 90% after delivery 10% after final doc	INV-ENE-11063-2018-001 INV-ENE-11063-2018-001		1 unit: 260D12L-121/S4	29%	MYR 6,656.79	Delivery to Dialog 24-Sept 2018	M1 - Done M2 - Done
30 days	INV-ENE-21079-2018-001		2 unit: 26DA12-120/SP	64%	MYR 20,063.65	Delivery to Wehaya by 13-Nov 2018	Done
30 days	INV-ENE-21080-2018-001		1 unit: 26FA12-120/N1/SP	33%	MYR 6,524.73	Delivery to Wehaya by 13-Nov 2018	Done
20% Down Payment; 20% Upon submission of GA drawing and datasheets; 50% Upon receipt of Goods at Delivery Place; 5% upon Completion of Commissioning and submission of final documentations and 5% retention after warranty period.			14 unit 4100 series 2 unit 6400 series	44%	MYR 148 849.11	NOT INCLUDE INSURANCE	
30 days	INV-ENE-21064-2018-001		1 unit: 261A11-120	61%	MYR 11,311.67	Revised PO dated 28.08.18 (Acknowledge with comment, delivery date end of Sept) Delivery to Wehaya 8-Oct 2018	Done
30 days	INV-ENE-11042-2018-001		1 unit: 260A13L-120/M4/SP	45%	MYR 18,598.12	Delivery to HESS on 11-Dec-2018	Done
30 days	INV-ENE-21045-2018-002		1 unit: 26EA10-120	15%	MYR 1,535.91	Delivery to Wehaya 1-Oct 2018	Done
60 days 90% after delivery 10% after final doc	INV-ENE-11074-2018-001 INV-ENE-11074-2018-002		4 unit: 260D12L-121/S4/SP	29%	MYR 36,181.87	ADDITIONAL TAGGING LOCAL Delivery to Pengerang on 3-Dec 2018	M1 - Done M2 - Done

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15% upon PO act 20% upon submitted sketch/drawing 60% upon delivery 5% upon final doc	INV-ENE-11052-2018-001 INV-ENE-11052-2018-002 INV-ENE-11052-2018-003 INV-ENE-11052-2018-004		3 unit: 3PCA33H-S20/P/N4/SP 3 unit: 3PCA33-4H70/N/LSP	22%	MYR 9,324.48	DELIVERY COMPLETED on 2 BATCH	M1 Done M2 Done M3 Done M4 Done
30 days	INV-ENE-22091-2018-001		Spare Parts	58%	MYR 2,134.45	Delivery to Wahsee dated 27-08-18	Done
60 days	INV-ENE-22086-2018-002		Spare Parts	32%	MYR 2,401.77	Delivery to BASF dated 11-Oct	Done
60 days: 90% after delivery 10% after final doc	INV-ENE-11078-2018-001 INV-ENE-11078-2018-002		2 unit: 2PDC33B-231/S4/SP	46%	MYR 12,534.06	ADDITIONAL TAG/BBQ UOM, DELIVERY DONE	M1 - Done M2 - Done
			Spare Parts			Stock at ENE Warehouse	
30 days	INV-ENE-22079-2018-001		Spare Parts	62%	MYR 12,585.24	Delivery to SDPC dated 5-Dec	Done
COD	INV-ENE-11020-2018-003		FAT at ENE Workshop (4 units)	100%	MYR 1,500.00	FAT schedule on 14-Sept-2018	Done
			FOR FAST CENTER 12 units PSV			Stock at ENE Warehouse	
					MYR 300,411.90		
30 days	INV-ENE-21049-2018-003		Spare Parts	65%	MYR 22,165.85	Delivery to MSI on 12 Nov 2018	Done
30 days	INV-ENE-22096-2018-001		Spare Parts	36%	MYR 2,048.82	Expected to KSB by ENE on 5-Dec 2018 Delivery to KSB on 5-Dec 2018	Done
60 days	INV-ENE-21096-2018-002		1 unit: 2GA110-120	58%	MYR 13,494.25	Delivery to FPG dated 26-Dec	Done
60 days	INV-ENE-21097-2018-003		1 unit: 2BHA10-120	61%	MYR 12,214.82	Delivery to FPG dated 23-Nov	Done
			Spare Parts			Stock at ENE Warehouse	
50% down payment 50% upon delivery	INV-ENE-22067-2018-001 INV-ENE-22067-2018-002		Spare Parts	80%	MYR 7,981.17	Delivery to VOSS dated 26-Feb	Done
					MYR 97,994.43		
60 days	INV-ENE-22098-2018-001		Spare Parts	66%	MYR 26,961.85	Delivery to BASF dated 15-Nov	Done
30 days	INV-ENE-22096-2018-001		Spare Parts	69%	MYR 10,516.08	Delivery to Seremban 10-Oct 2018	Done
30 days: M1- 10% upon adv. PO M2- 20% after dpd submission M3- 60% after delivery M4- 10% final doc	INV-ENE-11076-2018-002 INV-ENE-11076-2018-003		1 unit: 2SDA10-120/M8/SP 1 unit: 2SDA10-130/M4/SP	28%	MYR6,377.29	Painting to be done locally (RM 800)	M1 DONE M4 DONE
60 days 10% of submission key doc 80% upon delivery 10% after final doc	INV-ENE-21062-2018-001 INV-ENE-11062-2018-002 INV-ENE-11062-2018-003		2 unit: 2SDC16A-170/SP 2 unit: 2BFC10-140/SP 2 unit: 2GLC10-130/SP 1 unit: 3BNT10-140/SP 2 unit: 2GFC10-170/SP Commissioning Spares (Gasket & Orang)	24%	MYR 58,035.50	CTC (RM 2000) & SAT (RM 1000)TO BE LOCALLY DONE Delivery to Labuan dated 26-Apr	M1 - Done M2 - Done M3 - Done
60 days	INV-ENE-22103-2018-001		Spare Parts	50%	MYR 3,450.94	Delivery to BASF dated 23-Nov	Done
60 days	INV-ENE-21043-2019-001		1 unit 2FCD33-120/M4 Spare Parts	55%	MYR 10,987.20	Delivery to FPG dated 17-Jan	Done
30 days	INV-ENE-22113-2019-001		Spare Parts	76%	MYR 4,852.76	Item from Stock List DELIVERY TO EXXON - 28/3/2019	Done
30 days	INV-ENE-22094-2019-001		Spare Parts + Service	66%	MYR 122,872.25	Job completed at Gurun 18-April	Done
30 days	ENE-21109-2018-001		Spare Parts	62%	MYR 1,957.94	Item from Stock List Delivery to PDB 8/3/19	Done
30% upon PO act 70% before delivery	INV-ENE-11079-2018-001 INV-ENE-11079-2018-002		2 units 2BHA13-120/SP 2 units H26GA13-120/SP	30%	MYR 27,939.22	SAT AT ENE TO BE DELIVERED BY 25/2/19	Done
			Spare Parts				
					MYR 289,988.30		
45 days M1 - 10% upon Drawing Approve M2- 30% Successful SAT M3- 40% Before delivery M4- 20% on Final Site	INV-ENE-11080-2019-001 INV-ENE-11080-2019-002 INV-ENE-11080-2019-003 INV-ENE-11080-2019-004		3 unit: 2GA13-120/SP 1 unit: 2GA13-120/SP 1 unit: 2GA13-170/SP	54%	MYR 42,731.84	SAT AT ENE TO BE DELIVERED BY 28/2/19 DELIVERY TO SEREMBAN BY CHRIS ON 13/2/20	M1-Done M2-Done M3-Done M4-Done
40 days, after delivery	INV-ENE-22099-2018-001		1 unit: 2GJ814L-920/D4/SP SPARE PART	81%	MYR 13,663.36	SAT AT ENE SPARE PARTS FROM STOCK LIST ACTUAL 3RD PARTY 3.2 - NOT INCLUDED IN BUYING YET Expected to deliver SPARE PART by ENE on 5-Dec Delivery to Setia/KESS ESB 9-July 2019	Done
60 days	INV-ENE-22117-2018-001		Spare Parts	50%	MYR 2,542.56	ITEMS FROM STOCK LIST Delivery to BASF 7-2-19	Done
30 days	INV-ENE-22110-2018-001		Spare Parts	85%	MYR 132,634.61	SOME ITEMS FROM STOCK LIST DELIVERY TO ARAMCO - 29/1/2019 Delivery to PDB 6/2/19	Done
30 days: M1-10% upon PO M2- 70% CIF Port Klang M3 - 20% upon final doc	INV-ENE-11066-2018-001 INV-ENE-11066-2018-002 INV-ENE-11066-2018-003		2 unit: 2EDA13-120/SP 2 unit: H9SRA13-120/SP	21%	MYR 17,304.53	S&T AT ENE Delivery to Klang on 5-July 2019	M1 - Done M2 - Done M3 - Done
30 days	INV-ENE-21103-2018-001		Spare Parts	26%	MYR 30,589.60	IT ITMS FROM STOCK LIST DELIVERY TO SUNWAY 11-2-19	Done
30 days	INV-ENE-22108-2018-001		Spare Parts	100%	MYR 389.00	ITEMS FROM STOCK LIST Delivery to Pengerang 8-2-19	Done
30 days			Spare Parts	75%	MYR 1,889.00	DELIVERY TO EXXON- 28/2/2019	Done
			Valve & Spring			TO BE DELIVERED ENE 25/2/19	
30 days M1- 10% upon approved GAD & Piping M2- 80% CIF Port Klang M3- 10% upon SAT M4 - 10% upon final doc	INV-ENE-11088-2018-001 INV-ENE-11088-2018-002 INV-ENE-11088-2018-003 INV-ENE-11088-2018-004		2 unit: 2GDA13-120/SP 2 unit: 2GLA13-120/SP Spare: Gasket	28%	MYR 21,427.09	SAT AT ENE TO BE DELIVERED BY 25/2/19 DELIVERY TO BALAKONG BY CHRIS ON 15/7/19	M1 - Done M2 - Done M3 - Done M4 - Done
M1- 10% down payment M2- 70% upon delivery M3- 30 days, 20% after delivery	INV-ENE-11109-2018-001 INV-ENE-11109-2018-002 INV-ENE-11109-2018-003		4 unit: 2FDA13-4H70/S4/SP	29%	MYR 4,316.48	Delivery to Kasset 21-Jan-2019	M1 - Done M2 - Done M3 - Done
30 days			Spare Parts	83%	MYR 63,404.37	DELIVERY TO KERTEH 28-2-19	Done
			Spare Parts				
30 days	INV-ENE-22116-2019-001		Spare Parts	63%	MYR 62,905.54	DELIVERY TO KERTEH 11-3-19	Done
					MYR 795,701.82		

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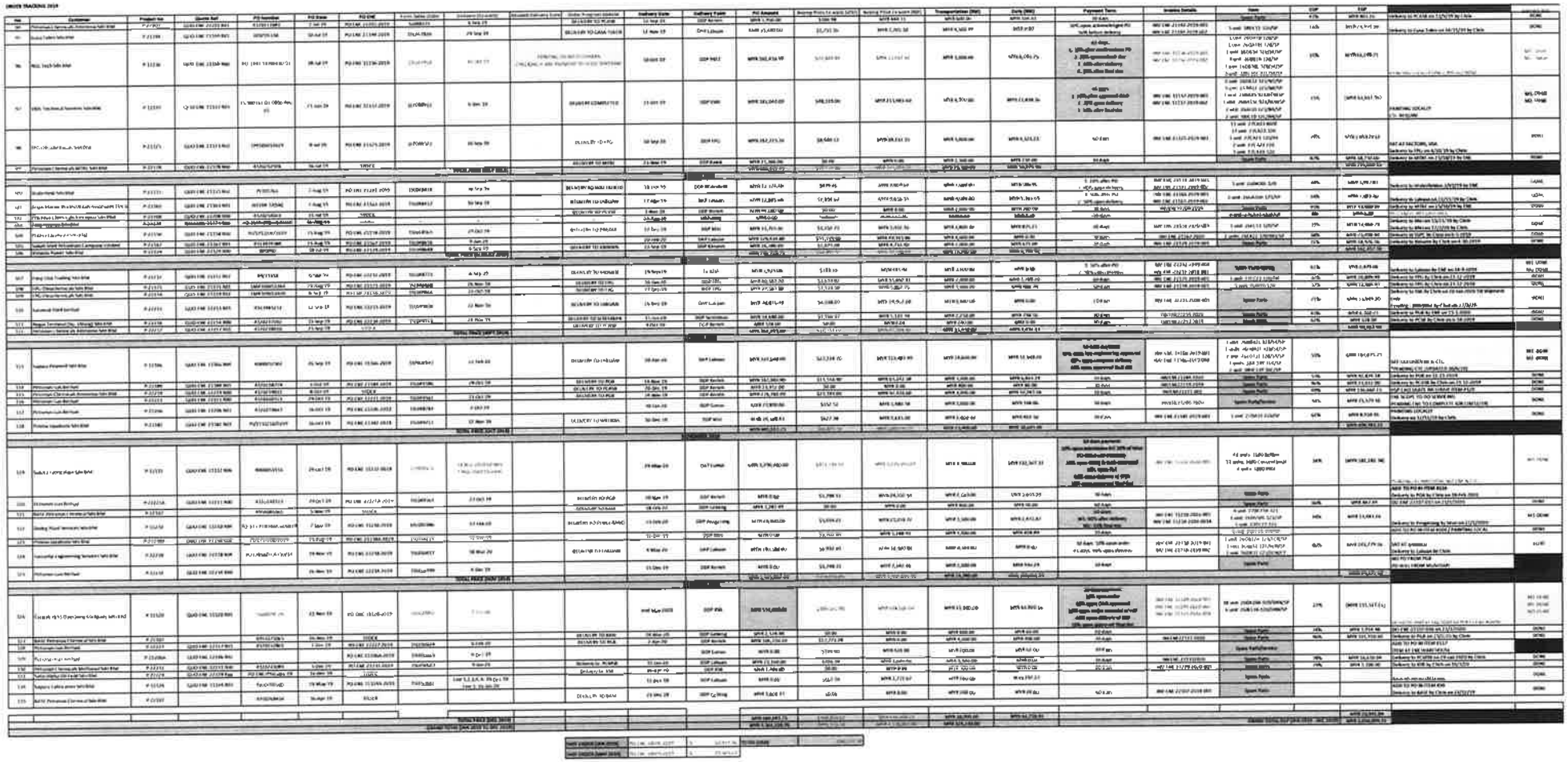

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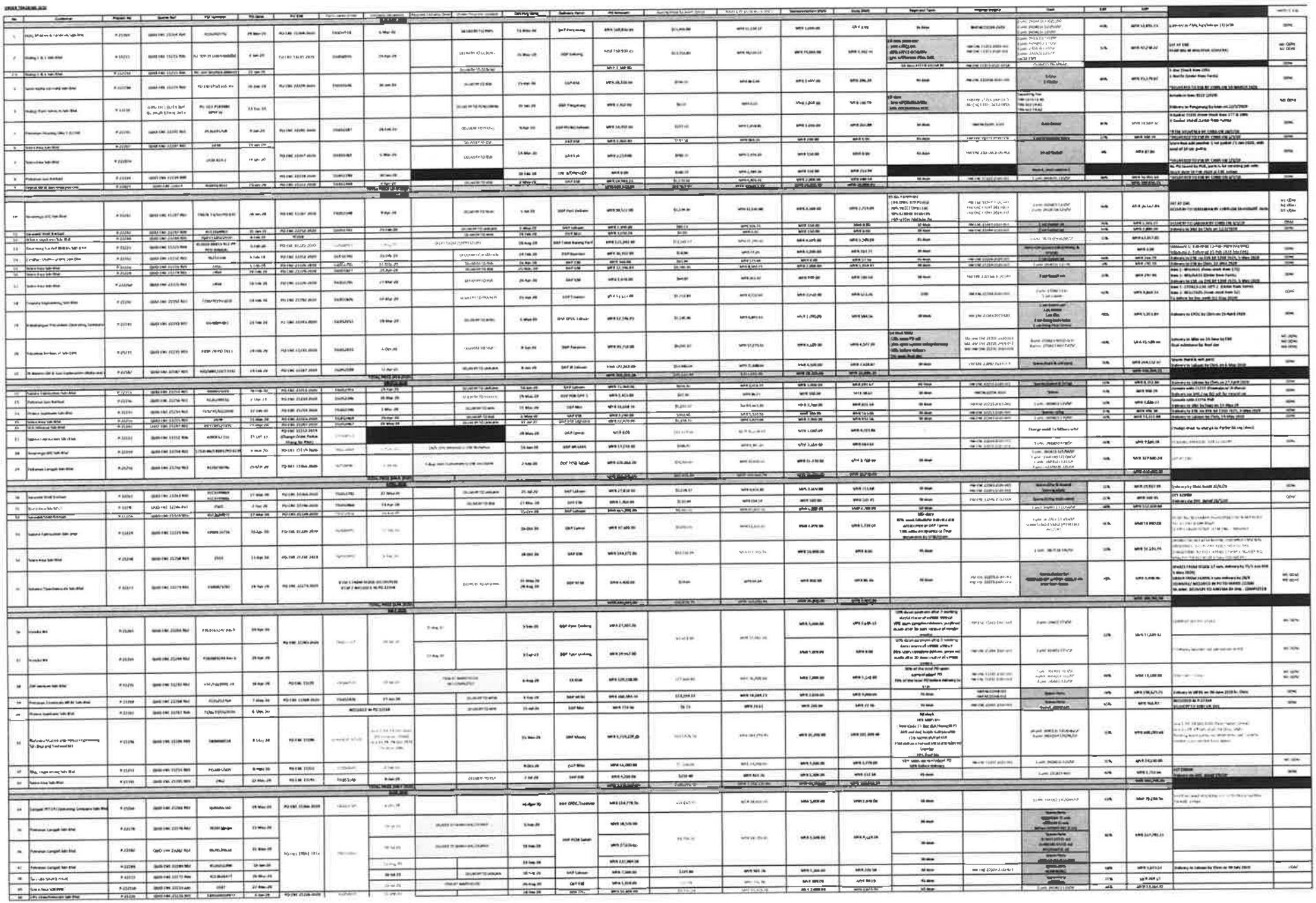

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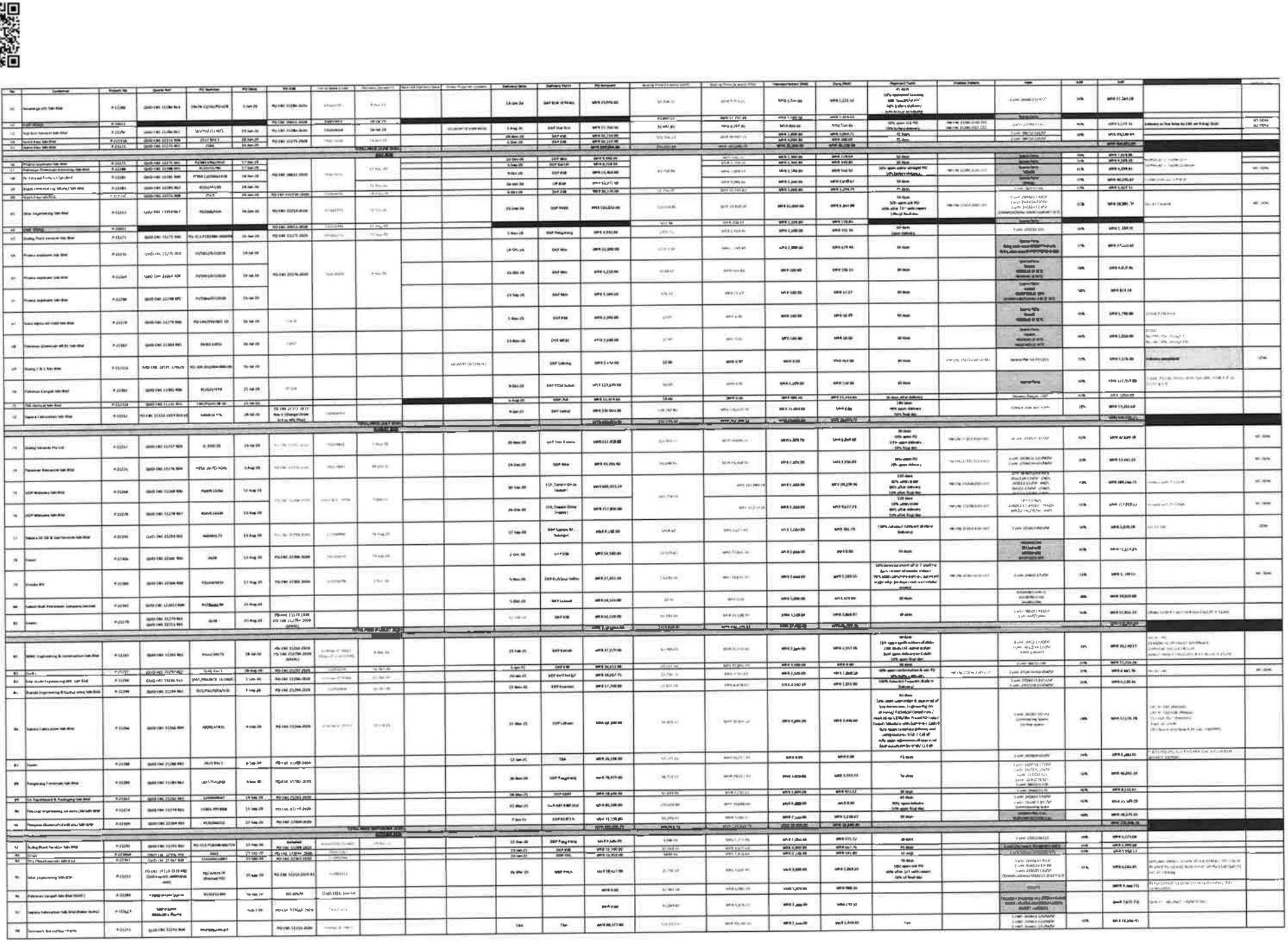

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No	Date	Amount (USD)	Rate	Amount (MYR)	Fee (MYR)	GST (MYR)	Total (MYR)
1	5/1/2018	5,755.36	4.0580	23,355.25	30.00	1.80	23,387.05
2	2/2/2018	373.55	3.9490	1,475.15	30.00	1.80	1,506.95
3	14/2/2018	7,502.52	3.9970	29,987.57	30.00	1.80	30,019.37
4	20/2/2018	17,852.96	3.9080	69,769.37	30.00	1.80	69,801.17
5	26/3/2018	9,842.32	3.9730	39,103.54	30.00	1.80	39,135.34
6	30/3/208	5,704.23	3.9220	22,371.99	30.00	1.80	22,403.79
7	25/4/2018	6,096.15	3.9350	23,988.35	30.00	1.80	24,020.15
8	23/5/2018	123,395.27	4.0130	495,185.22	30.00	1.80	495,217.02
9	27/6/2018	5,020.23	4.0570	20,367.07	30.00	1.80	20,398.87
10	19/7/2018	21,010.81	4.0975	86,091.79	30.00	0.00	86,121.79
11	16/8/2018	24,645.61	4.1300	101,786.37	30.00	0.00	101,816.37
12	13/9/2018	51,450.44	4.1700	214,548.33	30.00	0.00	214,578.33
13	4/10/2018	49,635.34	4.1750	207,227.54	30.00	0.00	207,257.54
14	1/11/2018	1,480.36	4.2420	6,279.69	30.00	0.00	6,309.69
15	7/11/2018	29,755.85	4.2100	125,272.13	30.00	0.00	125,302.13
16	27/11/2018	66,058.14	4.2250	279,095.64	30.00	0.00	279,125.64
17	5/12/2018	11,730.73	4.2150	49,445.03	30.00	0.00	49,475.03
18	20/12/2018	42,189.80	4.2180	177,956.58	30.00	0.00	177,986.58
	TOTAL	**479,499.67**					**1,973,862.81**

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No	Date	Amount (USD)	Rate	Amount (MYR)	Fee (MYR)	GST (MYR)	Total (MYR)
1	4/1/2029	2,939.98	4.1970	12,339.10	30.00	0.00	12,369.10
2	15/1/2029	13,118.14	4.1368	54,267.12	30.00	0.00	54,297.12
3	25/1/2019	41,178.28	4.1780	172,042.85	30.00	0.00	172,072.85
4	14/2/2019	28,081.93	4.0980	115,079.75	30.00	0.00	115,109.75
5	8/3/2019	74,408.09	4.1050	305,445.21	30.00	0.00	305,475.21
6	26/3/2019	11,769.77	4.0685	47,885.31	30.00	0.00	47,915.31
7	29/3/2019	12,392.01	4.0880	50,658.54	30.00	0.00	50,688.54
8	18/4/2019	133,534.78	4.1750	557,507.71	75.00	0.00	557,582.71
9	19/4/2019	9,955.03	4.1620	41,432.83	30.00	0.00	41,462.83
10	9/5/2019	23,813.78	4.1720	99,351.09	30.00	0.00	99,381.09
11	12/6/2019	28,623.85	4.1880	119,876.68	30.00	0.00	119,906.68
12	21/62019	29,235.86	4.1950	122,644.43	30.00	0.00	122,674.43
13	27/6/2019	28,873.29	4.1820	120,748.10	30.00	0.00	120,778.10
14	9/7/2019	39,147.78	4.2080	164,733.86	75.00	0.00	164,808.86
15	9/7/2019	4,656.04	4.2000	19,555.37	30.00	0.00	19,585.37
16	23/8/2019	14,940.77	4.1305	61,712.85	30.00	0.00	61,742.85
17	30/8/2019	19,187.77	4.2500	81,548.02	30.00	0.00	81,578.02
18	12/9/2019	28,420.88	4.2180	119,879.27	30.00	0.00	119,909.27
19	15/10/2019	28,084.61	4.2050	118,095.79	30.00	0.00	118,125.79
20	8/11/2019	60,891.59	4.1500	252,700.10	30.00	0.00	252,730.10
21	9/12/2019	8,925.89	4.1743	37,259.34	30.00	0.00	37,289.34
22	19/12/2019	3,384.04	4.1743	14,126.00	30.00	0.00	14,156.00
	TOTAL	**645,564.16**					**2,689,639.32**

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No	Date	Amount (USD)	Rate	Amount (MYR)	Fee (MYR)	GST (MYR)	Total (MYR)
1	23/1/2020	1,401.53	4.0940	5,737.86	0.00	0.00	5,737.86
2	23/1/2020	69,852.07	4.3850	306,301.33	75.00	0.00	306,376.33
3	11/2/2020	2,534.16	4.0915	10,368.52	0.00	0.00	10,368.52
4	16/3/2020	7,767.36	4.2125	32,720.00	0.00	0.00	32,720.00
5	31/3/2020	6,096.60	4.2125	25,681.93	0.00	0.00	25,681.93
6	1/4/2020	78,703.70	4.3849	345,107.85	75.00	0.00	345,182.85
7	20/5/2020	44,067.52	4.3690	192,530.99	30.00	0.00	192,560.99
8	24/6/2020	40,706.80	4.3850	178,499.32	30.00	0.00	178,529.32
9	22/7/2020	18,413.03	4.3850	80,741.14	30.00	0.00	80,771.13
10	26/8/2020	30,350.95	4.1850	127,018.73	30.00	0.00	127,048.73
11	21/9/2020	9,581.30	4.1380	39,647.42	30.00	0.00	39,677.42
12	8/9/2020	147,642.66	4.3000	634,863.44	75.00	0.00	634,938.44
13	14/9/2020	83,975.34	4.3000	361,093.96	75.00	0.00	361,168.96
14	15/10/2020	148,568.56	4.3000	638,844.81	0.00	0.00	638,844.81
15				0.00	0.00	0.00	0.00
16				0.00	0.00	0.00	0.00
17				0.00	0.00	0.00	0.00
18				0.00	0.00	0.00	0.00
19				0.00	0.00	0.00	0.00
20				0.00	0.00	0.00	0.00
21				0.00	0.00	0.00	0.00
22				0.00	0.00	0.00	0.00
	TOTAL	**689,661.58**					**2,979,607.29**

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OFCF-DUE IN NOV

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Payment to Farris

	USD	RM
2018 Based on Tracking Order	$771,581.02	RM3,276,002.74
2018 Based on Finance	-	RM1,973,862.81
2019 Based on Tracking Order	$995,573.14	RM4,176,803.80
2019 Based on Finance	-	RM2,689,639.32
2020 Based on Tracking Order	$695,987.37	RM3,044,078.83
2020 Based on Finance	-	RM2,979,607.29

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No	Date	Amount (USD)	Rate	Amount (MYR)	Fee (MYR)	GST (MYR)	Total (MYR)
1	4/1/2029	2,939.98	4.1970	12,339.10	30.00	0.00	12,369.10
2	15/1/2029	13,118.14	4.1368	54,267.12	30.00	0.00	54,297.12
3	25/1/2019	41,178.28	4.1780	172,042.85	30.00	0.00	172,072.85
4	14/2/2019	28,081.93	4.0980	115,079.75	30.00	0.00	115,109.75
5	8/3/2019	74,408.09	4.1050	305,445.21	30.00	0.00	305,475.21
6	26/3/2019	11,769.77	4.0685	47,885.31	30.00	0.00	47,915.31
7	29/3/2019	12,392.01	4.0880	50,658.54	30.00	0.00	50,688.54
8	18/4/2019	133,534.78	4.1750	557,507.71	75.00	0.00	557,582.71
9	19/4/2019	9,955.03	4.1620	41,432.83	30.00	0.00	41,462.83
10	9/5/2019	23,813.78	4.1720	99,351.09	30.00	0.00	99,381.09
11	12/6/2019	28,623.85	4.1880	119,876.68	30.00	0.00	119,906.68
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13	27/6/2019	28,873.29	4.1820	120,748.10	30.00	0.00	120,778.10
14	9/7/2019	39,147.78	4.2080	164,733.86	75.00	0.00	164,808.86
15	9/7/2019	4,656.04	4.2000	19,555.37	30.00	0.00	19,585.37
16	23/8/2019	14,940.77	4.1305	61,712.85	30.00	0.00	61,742.85
17	30/8/2019	19,187.77	4.2500	81,548.02	30.00	0.00	81,578.02
18	12/9/2019	28,420.88	4.2180	119,879.27	30.00	0.00	119,909.27
19	15/10/2019	28,084.61	4.2050	118,095.79	30.00	0.00	118,125.79
20	8/11/2019	60,891.59	4.1500	252,700.10	30.00	0.00	252,730.10
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	TOTAL	**645,564.16**					**2,689,639.32**

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2	23/1/2020	69,852.07	4.3850	306,301.33	75.00	0.00	306,376.33
3	11/2/2020	2,534.16	4.0915	10,368.52	0.00	0.00	10,368.52
4	16/3/2020	7,767.36	4.2125	32,720.00	0.00	0.00	32,720.00
5	31/3/2020	6,096.60	4.2125	25,681.93	0.00	0.00	25,681.93
6	1/4/2020	78,703.70	4.3849	345,107.85	75.00	0.00	345,182.85
7	20/5/2020	44,067.52	4.3690	192,530.99	30.00	0.00	192,560.99
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14	15/10/2020	148,568.56	4.3000	638,844.81	0.00	0.00	638,844.81
15				0.00	0.00	0.00	0.00
16				0.00	0.00	0.00	0.00
17				0.00	0.00	0.00	0.00
18				0.00	0.00	0.00	0.00
19				0.00	0.00	0.00	0.00
20				0.00	0.00	0.00	0.00
21				0.00	0.00	0.00	0.00
22				0.00	0.00	0.00	0.00
	TOTAL	689,661.58					2,979,607.29

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2020 Based on Finance	-	RM2,979,607.29

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TSI027.........................16.00 x 1
Jumlah RM****************************16.00

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...**PLAINTIF**

DAN

ENO PETRO SERVICES SDN BHD
(NO.SYARIKAT 201401048919) (1125108-T) ...**DEFENDAN**

****

IKATAN PLIDING TAMBAHAN

****

Difailkan oleh:
Tetuan Rohamat & Ling
1009, Tingkat 10, Menara PJ,
Pusat Perdagangan Amcorp,
18, Jalan Persiaran Barat,
46050 Petaling Jaya, Selangor
Tel No. 03-7932 5050
Fax No. 03-7932 5151
Ruj No.: LIT/2020 1114_ARAR

S/N RJ70IRR1ckebjx4RbPXsQA
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3	Pembelaan dan Tuntutan Balas Terpinda bertarikh 21.4.2022	13-50

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WA-22NCC-281-06/2021

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WA-22NCC-281-06/2021
TSW025.....20.00 x 1
Jumlah RM**********20.00

Writ Saman dipinda menurut Aturan 20 Kaedah 12 Kaedah-kaedah Mahkamah 2012

MOHD SYAFIQ BIN MUSTAZA
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

.....
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

DALAM MAHKAMAH TINGGI DI KUALA LUMPUR

DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR

(BAHAGIAN DAGANG)

GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) ...DEFENDAN

WRIT SAMAN TERPINDA

"YANG ARIF KETUA HAKIM MALAYA, ATAS NAMA YANG DI-PERTUAN AGONG"

Kepada :-

ENE PETRO SERVICES SDN BHD
Suite 7-03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur

dan/atau

ENE PETRO SERVICES SDN BHD
B-3-2A, Block B,
Ostia Bangi Business Avenue,
Jalan Ostia 1, Seksyen 14,
Bandar Baru Bangi, 43650 Selangor

S/N kNTJY1/Ls0eQIbDZIe4dPg
**Note : Serial number will be used to verify the originality of this document via eFILING portal
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KAMI PERINTAHKAN KAMU bahawa dalam empat belas hari selepas penyampaian Writ ini kepada kamu, termasuklah hari penyampaian itu, kamu hendaklah menyebabkan suatu kehadiran dimasukkan untuk diri kamu dalam suatu kuasa atas Guaman Plaintif yang dinamakan di atas dan AMBIL PERHATIAN, bahawa dalam keingkaran kamu berbuat demikian Plaintif boleh meneruskan untuk mendapatkan penghakiman dan pelaksanaan.

DISAKSIKAN oleh Siti Aisyah binti Ahmad Timbalan Pendaftar Mahkamah Tinggi Malaya di Kuala Lumpur pada 18 haribulan Jun 2021

t.t

.....
Peguamcara Plaintif

.....
Pendaftar,
Mahkamah Tinggi
Kuala Lumpur

Memorandum yang hendak Diturunkan pada Writ

Writ ini tidak boleh disampaikan lebih dari enam bulan kalendar selepas tarikh di atas melainkan jika diperbaharui melalui perintah Mahkamah.

Defendan (atau Defendan-defendan) boleh hadir bersama dengan mencatatkan kehadiran (atau kehadiran-kehadiran) sama ada sendiri atau melalui peguam di Pejabat Pendaftaran Mahkamah Tinggi di Kuala Lumpur.

Seorang Defendan yang hadir sendiri boleh, jika dikehendakinya, memasukkan kehadirannya melalui pos, dan borang-borang yang tertentu bolehlah didapati

S/N kNTJY1/Ls0eQlbDZIe4dPg
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dengan menghantar Kiriman Pos berharga RM16.00 beserta sampul surat beralamat sendiri kepada Pendaftar, Mahkamah Tinggi di Kuala Lumpur.

Pengendorsan hendaklah dibuat pada Writ sebelum pengeluaran

Pengendorsan tuntutan

Tuntutan Plaintif menuntut terhadap Defendan seperti berikut:-

i)A Pelaksanaan spesifik Perjanjian Penyelesaian tersebut iaitu, surat syarikat Defendan bertarikh 26.10.2020;

i) Bahawa selanjutnya atau secara alternatifnya jikalau Defendan enggan melantik seorang juruaudit bebas, seorang juruaudit bebas dilantik oleh Mahkamah Yang Mulia ini untuk membuat suatu pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dari Jun 2017 sehingga Oktober 2020 untuk mengetahui keuntungan bersih berdasarkan pembayaran yang sudah terima dan pembayaran yang belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff, SPV Ball Valve* dan *GWC Italia*;

ii) Bahawa juruaudit bebas tersebut menyediakan suatu akaun penyata selepas pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dibuat dan segala kos pelantikan juruaudit bebas tersebut ditanggung oleh syarikat Defendan;

iii) Bahawa syarikat Defendan membayar kepada Plaintif jumlah yang dikira oleh juruaudit bebas tersebut;

iv) Secara alternatif, Defendan membayar kepada Plaintif sejumlah RM3,511,000.00;

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v) Faedah;

vi) Kos; dan

vii) Apa-apa relif lain dan/atau selanjut sebagaimana dianggap adil dan suaimanfaat oleh Mahkamah Yang Mulia ini

Dan RM (atau sekian jumlah sebagaimana yang dibenarkan setelah ditetapkan) untuk kos, dan juga jika Plaintif memperolehi perintah untuk penyampaian ganti, jumlah wang selanjutnya sebanyak RM (atau sekian jumlah sebagaimana yang dibenarkan setelah ditetapkan). Sekiranya amaun yang dituntut dan kos dibayar kepada Plaintif atau peguamnya dalam tempoh 8 hari selepas penyampaian writ ini (termasuk hari penyampaian), prosiding seterusnya akan ditangguhkan, tetapi sekiranya ternyata daripada pengendorsan pada writ itu bahawa Plaintif bermastautin di luar wilayah terjadual, sebagaimana yang ditakrifkan oleh Akta Kawalan Pertukaran Wang 1953, atau bertindak mengikut perintah atau bagi pihak seorang yang bermastautin sedemikian, prosiding akan hanya ditangguhkan sekiranya amaun yang dituntut dan kos dibayar ke dalam Mahkamah dalam masa yang tersebut itu dan notis pembayaran tersebut diberikan kepada Plaintif atau peguamnya.

(Sekiranya Plaintif membawa guaman itu atau Defendan dibawa guaman, atas wakil, hal ini mestilah dinyatakan dalam pengendorsan tuntutan itu)

Pengindorsan tentang peguamcara dan alamat

Writ Saman Terpinda ini telah difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor.
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj: LIT/2020 1114_ARAR

S/N kNTJY1/Ls0eQIbDZIe4dPg
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Pengendorsan tentang penyampaian

Writ ini telah disampaikan oleh dengan cara penyampaian kediri (atau sebagaimana yang berkenaan) (nyatakan cara penyampaian atau mengikut terma-terma suatu perintah untuk penyampaian ganti) kepada Defendan (yang saya kenali) (atau yang telah ditunjukkan kepada saya oleh)
(atau yang telah mengaku kepada saya bahawa dia ialah)
di (tempat) pada hari pada haribulan 2021.

Diendorskan pada haribulan 2021.

.....
Penghantar Saman

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WA-22NCC-281-06/2021

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WA-22NCC-281-06/2021
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Jumlah RM**********16.00

Pernyataan Tuntutan dipinda menurut Aturan 20 Kaedah 12 Kaedah-kaedah Mahkamah 2012

MOHD SYAFIQ BIN MUSTAZA
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

DALAM MAHKAMAH TINGGI DI KUALA LUMPUR

DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR

(BAHAGIAN DAGANG)

GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) ...DEFENDAN

PERNYATAAN TUNTUTAN TERPINDA

1. Plaintif adalah seorang warganegara Malaysia yang mempunyai alamat di No. 2, Jalan Panglima Awang 35/126D, Alam Impian, 40470 Shah Alam, Selangor.

2. Defendan adalah sebuah syarikat sendirian berhad yang dipertubuhkan di bawah undang-undang Malaysia dan mempunyai alamat urusniaga di Suite 7-03A, North Block, The Ampwalk, 218 Jalan Ampang, 50450 Kuala Lumpur dan mempunyai alamat berdaftar di B-3-2A, Block B, Ostia Bangi Business Avenue, Jalan Ostia 1, Seksyen 14, Bandar Baru Bangi, 43650 Selangor.

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3. Defendan merupakan sebuah syarikat yang menjalankan urusniaga dalam industri gas dan minyak.

4. Lebih kurang pada Februari 2017, Plaintif telah dilantik sebagai Pengurus Pembangunan **Perniagaan** (*"Business Development Manager"*) di syarikat Defendan dan lebih kurang pada masa yang sama, Plaintif merupakan pengarah dan pemegang saham di sebuah syarikat yang dikenali sebagai Ene Tech Venture Sdn Bhd (**"Ene Tech"**) dimana Encik **Muhammad Hafiz bin Ahmad** (**"Hafiz"**) juga merupakan salah seorang pemegang saham dan pengarah di syarikat Ene Tech.

5. Sebenarnya, susunan asal antara Plaintif dan Hafiz ialah Plaintif memperolehi perniagaan/jualan melalui syarikat Ene Tech tetapi pembekal-pembekal enggan berurusniaga dengan syarikat Ene Tech kerana ia adalah sebuah syarikat baru tanpa akaun yang diaudit.

6. Sehubungan daripada itu, Hafiz yang mencadangkan Plaintif bekerja di syarikat Defendan sebagai Pengurus Pembangunan Perniagaan untuk terus memperolehi perniagaan/jualan melalui syarikat Defendan yang sudah mempunyai akaun-akaun yang diaudit selama beberapa tahun.

7. Walau bagaimanapun, pada bulan September 2020, Plaintif telah berbincang dengan pengurusan syarikat Defendan terutamanya, dengan Hafiz iaitu pemegang besar syarikat Defendan, bahawa Plaintif berhasrat meletakkan jawatannya sebagai Pengurus Pembangunan Perniagaan di syarikat Defendan dan juga meletakkan

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jawatan sebagai pengarah di syarikat Ene Tech dan memindahmilik sahamnya kepada Encik Hafiz.

8. Syarikat Defendan juga telah akui terima notis perletakkan jawatan Plaintif yang diserahkan pada 28.9.2020 dan hari terakhir Plaintif adalah pada 30.10.2020.

9. Sehubungan daripada perletakkan jawatan Plaintif, kedua-dua pihak Plaintif dan Defendan telah memasuki suatu perjanjian penyelesaian berkenaan dengan peninggalan Plaintif daripada syarikat Defendan dan bersetuju antara lainnya:

   i) Syarikat Defendan bersetuju membayar 50% daripada keuntungan bersih berdasarkan kepada pembayaran yang diterima dan 40% daripada keuntungan bersih berdasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff* dan *GWC Italia* semasa Plaintif bekerja di syarikat Defendan di mana jumlah tersebut akan dikira dan dinyatakan dalam suatu akaun penyata yang disediakan oleh juruaudit pihak ketiga yang dilantik oleh Plaintif dan Defendan ("**Jumlah Penyelesaian**").

   ii) Akaun penyata tersebut adalah akhir dan muktamad.

   iii) Syarikat Defendan akan membayar RM100,000.00 kepada Plaintif dan jumlah ini akan dianggap sebagai bahagian pembayaran kepada Jumlah Penyelesaian.

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iv) **Suatu Perjanjian Memorandum** (*"Memorandum of Agreement"*) akan disediakan oleh syarikat Defendan dan akan dimasuki antara Plaintif dan Defendan berkenaan dengan obligasi kerahsiaan dan Plaintif tidak berhak menuntut terhadap syarikat Defendan melainkan tuntutan Jumlah Penyelesaian.

v) Baki Jumlah Penyelesaian (iaitu kurang RM100,000.00 yang dinyatakan di atas) hanya akan dibayar kepada Plaintif selepas Perjanjian Memorandum telah dimasuki antara Plaintif dan Defendan dan akaun penyata telah disediakan oleh juruakaun syarikat Defendan.

Kesemua terma-terma penyelesaian antara Plaintif dan Defendan adalah jelas ternyata di surat syarikat Defendan bertarikh 26.10.2020 (**"Perjanjian Penyelesaian tersebut"**).

10. Tambahan lagi, syarikat Defendan juga bersetuju membayar 50% daripada keuntungan bersih berdasarkan kepada pembayaran yang diterima dan 40% daripada keuntungan bersih berdasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan *SPV Ball Valve*.

11. Lebih kurang pada 28.10.2020, Plaintif telah menerima sekeping cek berjumlah RM100,000.00 daripada syarikat Defendan.

12. Plaintif telah meminta syarikat Defendan mengenai Perjanjian Memorandum dan penyediaan akaun penyata tetapi syarikat Defendan enggan/cuai/gagal menyediakan

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Perjanjian Memorandum dan akaun penyata sepertimana yang ternyata di dalam terma-terma perjanjian penyelesaian Plaintif dan Defendan.

13. Selanjutnya, Plaintif telah melantik peguamcaranya untuk meminta Perjanjian Memorandum dan akaun penyata tetapi syarikat Defendan masih enggan/cuai/gagal memberi apa-apa dan ini menunjukkan keengganan syarikat Defendan memenuhi obligasi untuk membayar Jumlah Penyelesaian tersebut kepada Plaintif.

13A. Syarikat Defendan telah mengabaikan dan telah enggan dan masih terus mengabaikan dan enggan mengambil sebarang Langkah untuk menyempurnakan Perjanjian Penyelesaian tersebut.

13B. Plaintif telah pada semua masa yang material dan masih bersedia berupaya dan ingin menyempurnakan obligasi-obligasinya di bawah perjanjian tersebut.

13C. Lanjutan daripada kemungkiran syarikat Defendan, Plaintif telah mengalami kehilangan dan kerugian Jumlah Penyelesaian yang syarikat Defendan telah mempersetujui untuk membayar Plaintif.

14. Plaintif juga cuba menawarkan penyelesaian mesra ("*amicable settlement*") tetapi syarikat Defendan enggan berunding malah mendakwa ketidakwujudan perjanjian penyelesaian serta obligasi membayar Jumlah Penyelesaian tersebut kepada Plaintif.

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15. ~~Memandangkan~~ Jikalau syarikat Defendan masih enggan meneruskan dengan pelantikan ~~berunding untuk melantik~~ seorang juruaudit bebas, maka Plaintif terpaksa memohon Mahkamah Yang Mulia ini untuk melantik seorang juruaudit bebas untuk memenuhi terma-terma perjanjian penyelesaian disini.

16. Walaubagaimanapun. Plaintif telah secara rela hati membuat kiraan sendiri dan sejumlah RM3,511,000.00 (kurang RM100,000.00) adalah jumlah yang perlu dibayar oleh syarikat Defendan kepada Plaintif sebagai Jumlah Penyelesaian tersebut.

17. Oleh demikian, Plaintif menuntut terhadap Defendan:

i)A Pelaksanaan spesifik Perjanjian Penyelesaian tersebut iaitu, surat syarikat Defendan bertarikh 26.10.2020;

i) Bahawa selanjutnya atau secara alternatifnya jikalau Defendan enggan melantik seorang juruaudit bebas, seorang juruaudit bebas dilantik oleh Mahkamah Yang Mulia ini untuk membuat suatu pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dari Jun 2017 sehingga Oktober 2020 untuk mengetahui keuntungan bersih berdasarkan pembayaran yang sudah terima dan pembayaran yang belum terima yang dihasilkan daripada perniagaan-perniagaan *Curtiss Wright, Malakoff, SPV Ball Valve* dan *GWC Italia*;

ii) Bahawa juruaudit bebas tersebut menyediakan suatu akaun penyata selepas pemeriksaan dan perkiraan akaun-akaun syarikat Defendan dibuat dan segala kos pelantikan juruaudit bebas tersebut ditanggung oleh syarikat Defendan;

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iii) Bahawa syarikat Defendan membayar kepada Plaintif jumlah yang dikira oleh juruaudit bebas tersebut;

iv) Secara alternatif, Defendan membayar kepada Plaintif sejumlah RM3,511,000.00;

v) Faedah;

vi) Kos; dan

vii) Apa-apa relif lain dan/atau selanjut sebagaimana dianggap adil dan suaimanfaat oleh Mahkamah Yang Mulia ini.

Bertarikh 18 haribulan Jun 2021

Bertarikh semula 5 haribulan April , 2022

t.t

.....

Peguamcara Plaintif

Pernyataan Tuntutan Terpinda ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj LIT/2020 1114_ARAR

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METERAI MAHKAMAH TINGGI MALAYA
KUALA LUMPUR

WA-22NCC-281-06/2021

Pernyataan Pembelaan dan Tuntutan Balas dipinda menurut Aturan 20 Kaedah 12 Kaedah-kaedah Mahkamah 2012
Bertarikh 21 April 2022

Encl No. 27

MOHD SYAFIQ BIN MUSTAZA
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR

(BAHAGIAN DAGANG)

DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

PERNYATAAN PEMBELAAN TERPINDA DAN TUNTUTAN BALAS

PERNYATAAN PEMBELAAN TERPINDA

1. Defendan mengakui perenggan 1 sehingga 3 Pernyataan Tuntutan.

2. Defendan mengakui perenggan 4 Pernyataan Tuntutan setakat Plaintif adalah seorang pengarah dan pemegang saham di sebuah syarikat di ENE TECH VENTURE Sdn. Bhd. (selepas ini dirujuk sebagai "ENE TECH") dan Muhammad Hafiz Bin Ahmad (selepas ini dirujuk sebagai "MH") adalah seorang pengarah dan pemegang saham dalam ENE TECH pada masa-masa yang material. Defendan dan ENE TECH adalah dua entiti berbeza, dan pengetahuan Defendan berkenaan ENE TECH terhad setakat ini sahaja.

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3. Defendan merujuk kepada perenggan 4 Pernyataan Tuntutan dan menyatakan bahawa melalui satu surat lantikan oleh Defendan bertarikh 10.07.2017 Defendan, jawatan yang ditawarkan kepada Plaintif adalah Pengarah Perniagaan ("Sales Director"). Walau bagaimanapun, oleh kerana Plaintif mempunyai komitmen pekerjaan di syarikat lain pada ketika itu, Defendan telah menawarkan jawatan sebagai Pengurus Pembangunan Perniagaan ("Business Development Manager") di syarikat Defendan, di mana Plaintif hanya mula berkerja sebagai jawatan Pengurus Pembangunan Perniagaan pada bulan Februari 2018. Ini adalah seperti yang jelas tertera di dalam Surat Pengesahan oleh Defendan bertarikh 17.07.2017.

4. Defendan merujuk perenggan 5 Pernyataan Tuntutan dan dengan tegas menyatakan bahawa ENE TECH dan MH adalah bukan pihak dalam tindakan ini, dan kausa tindakan sekiranya ada, tidak berhubung dan/atau berkait dengan tindakan di sini.

5. Defendan merujuk kepada perenggan 6 Pernyataan Tuntutan dan menafikan kandungan perenggan tersebut sekeras-kerasnya. Defendan seterusnya menyatakan bahawa tawaran jawatan Pengurus Pembangunan Perniagaan adalah berdasarkan terma-terma dalam Surat Lantikan bertarikh 10.07.2017, Surat Pengesahan bertarikh 17.07.2017 dan *Employee Handbook* syarikat Defendan, dimana jawatan yang ditawarkan kepada Plaintif adalah selaku pekerja syarikat Defendan untuk memenuhi keperluan komersial Defendan pada waktu yang material.

6. Defendan merujuk perenggan 7 dan 8 Pernyataan Tuntutan dengan menjelaskan Plaintif telah meletak jawatan terakhir Plaintif selaku

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Pengurus Pembangunan Perniagaan Defendan atas rentetan peristiwa material yang menjurus kepada peletakan jawatan Plaintif melalui notis lisan pada 28.09.2020. Pihak Defendan telah bersetuju untuk menerima perletakkan jawatan Plaintif berdasarkan terma-terma yang telah dipersetujui oleh kedua-dua Plaintif dan Defendan. Terma-terma ini ada di dalam surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 ("surat Persetujuan bertarikh 26.10.2020"). Defendan tidak mempunyai pengetahuan khusus jika Plantif telah meletakkan jawatan sebagai pengarah di syarikat ENE TECH dan memindahmilik sahamnya kepada MH, memandangkan ia tidak mempunyai kaitan dengan tindakan Plaintif terhadap Defendan di sini. Di sini Defendan menegaskan sekali lagi bahawa ENE TECH dan Defendan adalah dua entiti yang berbeza.

7. Defendan merujuk perenggan 9 Pernyataan Tuntutan, di mana Defendan di sini menyatakan bahawa melalui satu Persetujuan bertarikh 26.10.2020, terma-terma dalam surat tersebut antara lainnya adalah :

i) Defendan telah menerima Notis Lisan Perletakkan Jawatan Plaintif pada 28.09.2020, dimana hari terakhir Plaintif bekerja di syarikat Defendan adalah pada 30.10.2020;

ii) di perenggan 1 dinyatakan bahawa:

*as a gesture of appreciate in recognition of your (Plaintif) work, the Company (*Defendan*) agrees to award 50% of Net Profit based on payment received ("Full Payment") and 40% of Net Profit on payment not received ("pending Payment") generated*

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from Curtiss Wright, Malakoff and GWC Italia Business during your employment the amount of which shall be calculated and stated in an account statement prepared by third party auditor to be agreed by both parties and such statement shall be final and conclusive;

iii) di perenggan 2 dinyatakan bahawa:

as a token of good faith, the Company will pay an advance payment of RM100,000.00 ("Advance Payment") to you and such payment shall be deducted from the Full Payment and the balance thereof shall be reference to as "Balance Payment")

iv) di perenggan 3 dinyatakan bahawa:

a memorandum of agreement ("Memorandum of Agreement") will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company, which shall be executed by the Company and you in relation to the confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;

v) di perenggan 4 dinyatakan bahawa:

you shall not, at any time disclose to any person any information as to the trade secrets, technical processes and data, practices,

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business dealing or affairs of the Company or any of its clients or as to any other matter which may come to his or her knowledge by reason of your employment

vi) di perenggan 5 dinyatakan bahawa:

you shall not remove from the Company's premises any paper, notes, letters, telexes, calculations, drawings, and any other data/documents whatsoever belonging to or in the possession of the Company and, the date of this writing, you shall return to the Company all such data/documents to the Company

vii) di perenggan 6 dinyatakan bahawa:

you shall not engage in any detrimental conduct that is contrary or harmful to the interest of the Company or any of its subsidiaries, including, but not limited to, (i) its properties, (ii) disclosing or misusing any confidential information or material concerning the Company or any of its subsidiaries, (iii) participating in a hostile takeover attempt of the Company, (iv) any kind of act, directly or indirectly, damaging to the Company's reputation and image; and (v) engaging in an act of fraud or intentional misconduct

viii) di perenggan 7 dinyatakan bahawa

failing to comply with condition as stated in this Letter shall relieve the Company from any obligation to fulfill the payment mention in this Letter and in such event the payment has been

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made, you shall forthwith refund all the monies received and take any legal issue to protect the Company's interest

ix) *Proviso* dinyatakan bahawa

You are requested to return the access card and laptop before you leave today

8. Defendan menyatakan di sini bahawa tindakan Plaintif ini pra-matang memandangkan Defendan masih belum memperolehi bayaran penuh dari projek-projek *Curtiss Wright, Malakoff and GWC Italia Business.* Defendan sesungguhnya menyatakan bahawa berdasarkan surat Persetujuan, Plaintif hanya berhak terhadap jumlah penyelesaian hanya setelah Defendan memperolehi keuntungan bersih ('net profit') dari projek-projek tersebut, yang dianggarkan diterima pada tahun 2021. Walaupun begitu, sehingga kini, Defendan masih belum mendapat bayaran dan dengan itu, masih belum memperolehi sebarang keuntungan bersih.

~~8~~9. Defendan turut menyatakan dengan tegas di sini bahawa segala tawaran dalam surat Persetujuan bertarikh 26.10.2020 tersebut adalah hanya dan berasaskan sebagai *gesture of appreciation*. Walaubagaimanapun, tawaran tersebut terbatal dan tidak terpakai jika Plaintif gagal, enggan dan/atau abai mematuhi dan menghormati terma-terma dipersetujui yang termeterai dalam surat Persetujuan bertarikh 26.10.2020 tersebut. Di sini Defendan menegaskan bahawa Plaintif telah gagal, enggan dan/atau abai mematuhi dan menghormati terma-terma tersebut. Plaintif telah melanggar terma-terma yang telahpun dipersetujui oleh kedua-dua belah pihak itu.

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A. BUTIR-BUTIR PELANGGARAN

~~9~~10. Defendan di sini menyatakan dengan tegas bahawa pada masa-masa yang material Defendan telah dimaklumkan dan dibekalkan dengan maklumat serta bukti-bukti yang sahih daripada pihak pelanggan, pekerja-pekerja dan pihak ketiga atas tindakan dan perbuatan Plaintif yang telah secara salah memberitahu pihak luar tentang perihal syarikat Defendan dan secara jelas dan/atau tidak langsung memburukkan perniagaan, reputasi dan nama baik Defendan.

~~10~~11. Oleh yang demikian, Plaintif telah gagal dalam intipati akujanji-akujanji Plaintif dalam surat Persetujuan bertarikh 26.10.2020 tersebut dan seterusnya menyebabkan ia terbatal. Berikut adalah perkara-perkara berbangkit yang berkenaan pada masa-masa yang material:

i) Di dalam Aplikasi Whatsapp Group bernama Farris USA, ASIA & ENE yang dianggotai oleh Pelanggan Defendan – Farris USA, ASIA, Defendan dan juga Plaintif, Plaintif telah membuat satu pernyataan pada 02.11.2020 bahawa:

Plaintif	:	*Ok I check*
Farris Sean:		*I thought you no longer worked for ENE?*
Plaintif	:	*For Sapura issue client already know that I'm leaving but they need my assistance*
		I still in the Whatsapp group
		So I feel their pain and need to assist them
		I shall surrender company belonging untuk ENE paid my settlement

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Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4 dan 6 Surat Persetujuan tersebut.

ii) Perbualan Whatsapp Plaintif dan Syawal Ghazali ("**SG**") iaitu Business Development Manager di Flowtrim Sdn. Bhd, rakan niaga Defendan, pada 07.11.2021 dengan membuat pernyataan:

SG	:	*Wht happen*
	:	*?*
Plaintif	:	*Epit macam keling*
SG	:	*Psal gaji ke?*
Plaintif	:	*Duit aku Tak dapat lagi*
	:	*Anak haram tu tak bayar lagi profit sharing aku lagi 4 juta*
SG	:	*Fuhhh byk tu*
	:	●
	:	*Panigale da amik?*
Plaintif	:	*Johnny berhenti bulan 10 2020 dia dapat tau nama dia dah dikeluarkan dari SSM sejak october 2018*
	:	*Johnny pun Tak dapat duit dia lagi*

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	:	*Lepas ni court case bro*
	:	*dan share holder 5 tahun penjara bro tipu sign*
SG	:	*Uh damn it*
	:	*Da confronted ke?*
Plaintif	:	*Dia bukak bubble z beli kedai 4 tingkat 3.35 juta bro*
	:	*Isnin aku Ngan Johnny p jumpa babi tu*
	:	*Syed Afisol pun dah kene game*
SG	:	*Try la settle baik2*
	:	*Knai lama dah*
	:	*Industry kecik*
Plaintif	:	*Safuan Trisystem pun dah kene game*
SG	:	*[Syed Afisol pun dah kene game]*
		Ni apa kes plak?
Plaintif	:	*Tunggu ko je belum kene*
SG	:	*:`D*
Plaintif	:	*Dia janji macam keling ko ingat agency cari dia ke semua aku setup dia cerita buruk aku je kat org*
	:	*Duit ko dah dapat*
	:	*Ramai duit org dia tak bagi"*
SG	:	*Adehhhh*
	:	*Koyak ni*
	:	*Dia ada nk jumpa aku*
	:	*Xdan lg aku nk g*
Plaintif	:	*Ko dtg lah cerita dia akan tanya ko wan Ngan johnny ade cerita ape2 tak*
SG	:	*Hahah myb*
	:	*:`D*

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: *Atau nk jual share cmpny*

: *Hahaha*

Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memburukkan pengurusan Defendan, malah telah membuat kenyataan tidak benar dan tuduhan-tudahan yang berat terhadap Defendan dan pengurusan Defendan. Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut.

iii) Melalui satu hantaran Whatsapp oleh Plaintif pada 31.10.2020 dengan Mohd Khairul Amini Ramli ("**KA**"), Plaintif telah menyatakan bahawa:

Plaintif : *Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar . Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam ... ni yg lagi Saya nak meletop ni tak guna Partner ngan org Tak jujur ...*

Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah

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Defendan. Bukan sahaja Plaintif memburukkan Defendan dan pengurusan Defendan, malah telah membuat kenyataan tuduhan-tudahan yang berat yakni Defendan adalah korup, menipu dan tidak jujur terhadap Defendan dan pengurusan Defendan. Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut

vii) Melalui satu hantaran Whatsapp oleh Plaintif pada 12.11.2020 dengan Nurul Hanan, pegawai Petronas Carigali Sdn. Bhd., seorang pegawai kepada pelanggan Defendan, Defendan telah dimaklumkan dan dibekalkan dengan bukti bahawa Plaintif telah menyatakan bahawa:

"Aku bawak balik PO 28 juta untung 14 juta janji nak split 50:50 cuma bayar aku RM900k Lepas tu bila aku nak berenti dia declare nak bayar aku 1.2 juta

Memang aku nak fight masuk mahkamah semua untung rugi company aku tau sebab aku buat sale

Kalau ada setting pun kenapa nak selindung kata Partner Aku punya dia sebuk ikut aku

Lepas tu guna duit company beli property

Sorok 2 dari aku

Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

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Johnny p refer lawyer

Amanina berenti sebab semua org gaji dia potong 25% dari bulan 4 sampai 9 selama 6 bulan budak2 buat kerja dia tau untung company besar kenapa nak potong.

Ko hati2 ngan org macam ni dia sembang semua org dia kenal. Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

Dia buat aku susah

Skang dia kaya dia belagak macam tuhan

Wow dia sembang ngan aku dan Johnny Awak rapat ngan dia. Saya Kalau baik ngan org pun Tak mau cerita lah buat ape menunjuk2

Dia baru nak meniaga sembang tinggi sangat"

Di sini, Plaintif telah merujuk kepada Defendan dan juga Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memburukkan pengurusan Defendan, malah telah membuat kenyataan tidak benar dan tuduhan-tudahan salah laku, pecah amanah dan jenayah yang berat terhadap Defendan dan pengurusan Defendan. Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut

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Saksi-saksi dan bukti-bukti akan dipanggil dan dikemukakan di perbicaraan kelak.

~~11~~12. Defendan di sini merujuk kepada surat Persetujuan bertarikh 26.10.2020 di perenggan lima (5) dan *proviso* tersebut di mana Plaintif perlu menyerah kembali harta milikan Defendan iaitu laptop di mana terkandung antara lain fail-fail, maklumat-maklumat rahsia dan data-data Defendan dan akses kad. Sehingga ke tarikh tindakan ini difailkan, Plaintif telah dengan sengaja enggan, gagal dan/atau cuai untuk berbuat demikian dan ini menyebabkan surat Persetujuan bertarikh 26.10.2020 terbatal.

13. Defendan merujuk 10 Pernyataan Tuntutan dan mengulangi pernyataan Defendan di atas, di mana tuntutan Plaintif untuk sebahagian keuntungan bersih untuk projek *SPV Ball Valve* adalah pra-matang, memandangkan sehingga kini Defendan masih belum memperolehi bayaran penuh bagi projek tersebut. Oleh itu, Defendan masih belum memperolehi keuntungan bersih bagi projek ini.

14. Sekali lagi Defendan menyatakan bahawa Plaintif tidak berhak untuk menuntut apa-apa di bawah Surat Persetujuan tersebut memandangkan Plaintif telah melanggar terma-terma yang telahpun dipersetujui.

~~13~~15. Defendan mengakui perenggan 11 Pernyataan Tuntutan dan menyatakan di sini bahawa Ringgit Malaysia Seratus Ribu (RM100,000.00) tersebut adalah bayaran atas niat baik (*goodwill*) atas termeterai surat Persetujuan bertarikh 26.10.2020. Walau bagaimanapun, di sini Defendan menyatakan bahawa akibat

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pelanggaran terma-terma dalam surat Persetujuan berkenaan, Plaintif adalah tidak berhak atas wang tersebut dan apa-apa wang yang telah diberikan melalui surat Persetujuan bertarikh 26.10.2020 secara langsung atau tidak mesti dipulangkan kepada Defendan.

16. Defendan di sini menafikan sekeras-kerasnya perenggan 12 dan 13 A – C Pernyataan Tuntutan. Defendan menyatakan bahawa pada semua masa matan, Plaintif masih belum berhak untuk menerima jumlah penyelesaian memandangkan Defendan masih belum mendapat bayaran penuh dan seterusnya keuntungan bersih dari kesemua projek-projek terbabit. Walaubagaimanapun – oleh kerana Plaintif terus mendesak Defendan untuk wang penyelesaian walaupun jelas Plaintif masih belum berhak – kedua-dua pihak pada asalnya telah bersetuju untuk En. Mohd Khairul Amini Ramli daripada Tetuan Amini Ramli & Co sebagai akauntan bebas pihak ketiga ("Akauntan Bebas") ~~yang akan~~ untuk menyediakan Penyata Akaun Unjuran ("Projected Statement of Account") bagi jumlah peyelesaian., ~~seperti yang tertera di dalam perenggan 3 surat Persetujuan tersebut~~.

17. Melalui emel bertarikh 11.12.2020 daripada Tetuan Amini Ramli & Co, satu penyata akaun unjuran telahpun disediakan, dimana pengiraan dan jumlah penyelesaian dinyatakan, dan pengunjuran dijelaskan dengan terperinci. Namun begitu, Plaintif kemudiannya tidak berpuas hati dan tidak bersetuju untuk mengunapakai pengiraan tersebut. Tindakan Plaintif ini telah membelakangkan persetujuan beliau (went back on his words). Oleh yang demikian, *Memorandum of Agreement*, yang merupakan pra-syarat (*Pre-condition*) seperti yang dinyatakan dalam surat Persetujuan bertarikh 26.10.2020, tidak termeterai.

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~~15~~18. Defendan menyatakan dengan tegas di sini, merujuk kepada surat Persetujuan bertarikh 26.10.2020, pihak-pihak telah bersetuju bahawa sebelum bayaran dilepaskan kepada Plaintif, *Memorandum of Agreement* mesti dimeterai dan penyata akaun daripada akauntan Defendan mesti disediakan terlebih dahulu. Ini sepertimana dinyatakan di bawah perenggan di mukasurat dua:

For the avoidance of doubt, the Company shall only release the Balance Payment to you once the Memorandum of Agreement has been executed by both parties and the statement of account has been prepared by the accountant of the Company.

~~16~~19. Plaintif juga telah beberapa kali memohon daripada Akauntan Bebas tersebut untuk memberikan penyata kewangan yang berkenaan.

I) Melalui satu hantaran Whatsapp oleh Plaintif pada tarikh-tarikh yang dinyatakan dibawah kepada Muhammad Khairul Amini, Plaintif telah menyatakan bahawa:

31 Oktober 2020

"Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar .Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 Juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam ... ni yg lagi Saya nak meletop ni tak guna Partner ngan org Tak jujur

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Tadi Saya nak tgk document 2017, 2018 & 2019 sebab Epit kata Abg tgh buat 2020

Bagi Saya Semak sebab Saya tau perangai epit Macam mana

Tak pe bang mana org nak buat taksiran Saya recommend dengan Abg Khairul"

9 November 2020

"Kita tggu Abg punya update baru boleh buat keputusan"

~~17~~20. Pada 29 Oktober 2020, Plaintif juga bersetuju dengan Defendan bahawa Plaintif hanya akan menunaikan cek Defendan berjumlah RM100,000.00 hanya dan apabila Plaintif bersetuju dengan jumlah yang telah dikemukakan.

II) Melalui satu hantaran Whatsapp oleh Plaintif pada 29 Oktober 2020 kepada Whatsapp group bernama ENE Farris Top Management Group yang dianggotai oleh antaranya, Plaintif dan MH, Plaintif telah menyatakan bahawa:

"Kemudian auditor dan lawyer aku bagi tau jgn Bank in cheque 100k tu sampai all figure agreed. So Esok aku nak masuk office ko try call pulak Abg Khairul."

Pada sekitar 02.03.2021, cek tersebut telah dimasukkan oleh Plaintif, walaupun Plaintif tidak pernah memberikan persetujuan jumlah penyelesaian. Plaintif kini diestop dari menuntut satu jumlah yang tidak penah dipersetujui oleh kedua-dua Plaintif dan Defendan.

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~~18~~21. Defendan di sini menyatakan dengan tegas, bahawa melalui surat peguamcara Defendan bertarikh 19.11.2020, Defendan adalah pihak yang dahulu memulakan langkah menghubungi Plaintif untuk membuat penyelesaian atas niat baik, namun telah menemui jalan buntu. Melalui surat peguamcara bertarikh 12.01.2021, 03.02.2021 dan 23.04.2021, Plaintif telah membuat tuntutan atas satu jumlah yang tidak berasas dan tidak munasabah dan melampirkan sesalinan *Memorandum of Agreement* kepada peguamcara Defendan. Plaintif juga telah memberikan jumlah yang berbeza-beza iaitu RM3,500,000.00 melalui surat peguamcara plantif yang bertarikh 23.04.2021 dan RM3,511,000.00 melalui surat peguamcara Plaintif yang bertarikh 03.02.2021. Ini juga menunjukkan sekali lagi bahawa Plaintif telah tidak bersetuju dengan jumlah unjuran ("projected net profit") yang diberikan oleh Tetuan Amini Ramli & Co (Akauntan Bebas) tersebut. ~~dan telah melanggar terma dan syarat surat Persetujuan bertarikh 26.10.2020~~.

~~19~~22. Defendan menegaskan sekali lagi di sini bahawa pada semua masa matan, Plaintif masih belum berhak menerima bayaran penyelesaian kerana Defendan masih belum memperolehi keuntungan bersih dari projek-projek terbabit. Defendan mencadangkan satu penyata akaun unjuran disediakan dan ini dipersetujui oleh Plaintif. Walaubagaimanapun, memandangkan Plaintif gagal bersetuju dengan pengiraan unjuran Akauntan Bebas Tetuan Amini Ramli & Co, *Memorandum of Agreement* tidak mungkin dapat disediakan. Dengan itu, *Memorandum of Agreement* yang disediakan oleh peguamcara Plaintif adalah tidak dapat dipakai. Tambahan pula, jelas dalam surat Persetujuan bahawa pihak Defendan yang akan menyediakan *Memorandum of Agreement*:

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*"...a memorandum of agreement ("Memorandum of Agreement") **will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company**, which shall be executed by the Company and you in relation to the confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;"*

~~20~~23. Peguamcara Defendan telah melalui surat bertarikh 08.02.2021, 19.05.2021 menolak pengiraan Plaintif yang tidak berasas dan tidak munasabah. Dalam surat tersebut, Peguamcara Defendan menegaskan bahawa kerana pelanggaran terma-terma oleh Plaintif, sebarang tawaran melalui surat Persetujuan bertarikh 26.10.2020 tersebut adalah terbatal dan perkara ini tidak dipertikaikan atau dibangkang oleh Plaintif atau peguamcara Plaintif. Ini menunjukkan Plaintif bersetuju dengan perkara tersebut.

~~21~~24. Defendan menafikan perenggan 14 Pernyataan Tuntutan dan menyatakan Plaintif melalui surat peguamcara bertarikh 23.04.2021 masih menuntut satu jumlah yang tidak berasas dan tidak munasabah, walhal Plaintif pada setiap masa yang material mempunyai pengetahuan pada setiap masa yang material bahawa tuntutan Plaintif adalah tidak berasas dan tidak munasabah. Tuntutan Plaintif adalah satu cubaan untuk memperolehi keuntungan dan pengayaan diri yang salah dan bukanlah satu penyelesaian yang mesra.

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~~22~~25. Defendan seterusnya menyatakan bahawa Plaintif telah gagal dalam membutirkan sejumlah RM3,511,000.00 yang dituntut terhadap Defendan di dalam Pernyataan Tuntutan. Pembutiran adalah perlu memandangkan jumlah yang dituntut adalah dari rentetan projek-projek, dan bukan terhadap satu bayaran *one-off*.

~~23~~26. Defendan seterusnya menyatakan bahawa, pada masa yang material sebarang tawaran dalam surat Persetujuan bertarikh 26.10.2020 adalah terbatal atas pelanggaran terma oleh Plaintif.

~~24~~27. Defendan menafikan perenggan 15 Pernyataan Tuntutan dan menyatakan bahawa Defendan tidak lagi terikat atas terma-terma dalam surat Persetujuan bertarikh 26.10.2020 yang telah terbatal akibat pelanggaran terma oleh Plaintif.

~~25~~28. Defendan menafikan sekeras-kerasnya perenggan 16 Pernyataan Tuntutan dan menyatakan bahawa tuntutan atas jumlah tersebut adalah pra-matang, tidak berasas, tidak munasabah, kabur dan mengelirukan dalam tindakan di sini.

~~26~~29. Defendan menyatakan di sini, bahawa Plaintif gagal dan/atau enggan secara sengaja memberikan cerminan yang sebenar dan jelas atas fakta-fakta yang berbangkit.

~~27~~30. Defendan menyatakan bahawa Plaintif telah melepaskan hak ("*waive*") untuk mengemukakan tuntutan terhadap Defendan setelah berlaku pelanggaran terma-terma dalam surat Persetujuan bertarikh 26.10.2020 tersebut. Plaintif kini diestop dari membuat tuntutan-tuntutan terhadap Defendan di sini.

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~~28~~31. Defendan seterusnya menyatakan bahawa Plaintif hanya menerima gaji, elaun dan komisyen daripada Defendan sepanjang memegang jawatan selaku Pengurus Pembangunan Perniagaan dan ini jelas menunjukkan bahawa Defendan hanya merupakan seorang pekerja Defendan. Plaintif tidak berkelayakkan dan/atau berhak atas perkongsian keuntungan perniagaan Defendan. Plaintif juga tidak pernah melaburkan sebarang wang atau aset ke dalam Defendan yang membuatkannya mempunyai hak ke atas keuntungan Defendan.

~~29~~32. Defendan dengan tegas menyatakan di sini, selain dipersetujui oleh Defendan, akaun Defendan adalah tidak tertakluk kepada mana-mana auditor bebas bagi memenuhi tuntutan tidak berasas Plaintif.

~~30~~33. Defendan menyatakan di sini bahawa Plaintif diestop daripada apa-apa hak untuk memohon kepada Mahkamah Yang Mulia ini untuk Defendan diperiksa oleh mana-mana auditor setelah Plaintif telah pada awalnya secara bersama bersetuju menggunapakai khidmat Tetuan Amini Ramli & Co (Akauntan Bebas) untuk satu penyata akaun unjuran dan telah melalui tindakan dan perbuatan Plaintif menyebabkan surat Persetujuan bertarikh 26.10.2020 terbatal dan tidak terpakai.

~~31~~34. Defendan selaku syarikat sendirian berhad yang diperbadankan di bawah Akta Syarikat 2016 telah memenuhi dan mematuhi kehendak di bawah undang-undang terpakai pada setiap masa yang material.

~~32~~35. Tuntutan Plaintif selaku bekas pekerja untuk satu perkongsian keuntungan adalah tidak berasas, tidak munasabah dan tidak diperuntukkan oleh mana-mana undang-undang terpakai.

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~~33~~36. Defendan adalah pada setiap masa yang material terikat dan mempunyai tanggungjawab paling utama terhadap kepentingan pemegang-pemegang saham Defendan bagi memastikan kelangsungan perniagaan Defendan diurus tadbir dengan baik dan dalam keadaan yang teratur.

~~34~~37. Tuntutan-tuntutan di luar norma amalan perniagaan oleh Plaintif adalah daripada awal telah ditolak oleh Defendan dan sebarang usaha untuk menyelesaikan perkara ini adalah atas dasar niat baik, tulus dan suci hati oleh Defendan.

~~35~~38. Defendan merujuk kepada perenggan 17 Pernyataan Tuntutan dan menyangkal setiap tuntutan Plaintif dan selain dinyatakan sebaliknya, Defendan menafikan setiap pernyataan Plaintif di sini secara ad seriatim, dan memohon agar tuntutan Plaintif ini ditolak dengan kos.

TUNTUTAN BALAS

~~36~~39. Defendan dalam Tuntutan Balas menerima pakai dan mengulangi perenggan 1 sehingga 36 Pernyataan Pembelaan dalam Tindakan Asal.

~~37~~40. Plaintif telah melanggar terma-terma dalam Surat Persetujuan bertarikh 26.10.2020 yang telah dipersetujui dan termeterai oleh pihak-pihak dan seterusnya memungkiri obligasi-obligasi kontrak yang mengikat.

~~38~~41. Plaintif juga telah melanggar perjanjian perlantikan bertarikh 10 Julai 2017 apabila menjadi pengarah kepada Prosky Services Sdn Bhd dan

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pengarah dan pemegang saham kepada Pertama Gemilang Sdn. Bhd. yang merupakan persaing kepada perniagaan Defendan.

~~39~~42. Plaintif gagal untuk memulangkan menyerah kembali harta milikan Defendan iaitu laptop di mana terkandung antara lain fail-fail, maklumat-maklumat rahsia dan data-data Defendan dan akses kad yang sehingga ke tarikh tindakan ini difailkan, telah dengan sengaja enggan, gagal dan/atau cuai untuk berbuat demikian. Plaintif juga telah menggunakan data-data dan fail-fail di dalam laptop tersebut selepas tarikh penamatan pekerjaan Plaintif.

I) Melalui satu hantaran Whatsapp oleh Plaintif pada 2 November 2020 kepada Whatsapp group bernama Faris USA, ASIA & ENE yang dianggotai oleh antaranya, Plaintif, MH dan klien Defendan, Plaintif telah menyatakan bahawa:

"For Sapura issue client already know that I'm, leaving but they need my assistance

I still in the Whatsapp group

So I feel their pain and need to assist them

I shall surrender company belonging untuk ENE paid my settlement"

Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan

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Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4 dan 6 Surat Persetujuan tersebut

~~40~~43. Plaintif melalui persetujuan dan termeterainya Surat Persetujuan bertarikh 26.10.2020 telah menerima dan menunaikan cek daripada Defendan berjumlah Ringgit Malaysia Seratus Ribu (RM100,000.00) atas bayaran atas niat baik (goodwill), dan di sini Defendan menyatakan bahawa akibat pelanggaran terma-terma dalam surat berkenaan, Plaintif adalah tidak berhak atas wang tersebut dan wang tersebut haruslah dipulangkan kepada Defendan bersama laptop dan apa-apa milikan Defendan yang masih dalam milikan Plaintif.

~~41~~44. Plaintif dengan sengaja dan dengan niat telah memfitnah Defendan secara *libel* dengan memburukkan perniagaan, nama dan reputasi baik Defendan pada pihak-pihak ketiga.

~~42~~45. Defendan di sini menyatakan dengan tegas bahawa pada masa-masa yang material, Defendan telah dimaklumkan dan dibekalkan dengan maklumat serta bukti-bukti yang sahih daripada pihak pelanggan, pekerja-pekerja dan pihak ketiga atas tindakan, perbuatan Plaintif yang secara jelas dan/atau tidak langsung memfitnah dan/atau memburukkan perniagaan, reputasi dan nama baik Defendan di samping melanggar akujanji-akujanji kontraktual yang telah dipersetujui. Berikut adalah pernyataan-pernyataan dan/atau

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perkataan-perkataan yang dirujuk sebagai fitnah terhadap Defendan pada masa-masa yang material:

i) Di dalam Aplikasi Whatsapp Group bernama Farris USA, ASIA & ENE yang dianggotai oleh Pelanggan Defendan – Farris USA, ASIA, Defendan dan juga Plaintif, Plaintif telah membuat satu pernyataan pada 02.11.2020 bahawa:

Plaintif	:	*Ok I check*
Farris Sean:		*I thought you no longer worked for ENE?*
Plaintif	:	*For Sapura issue client already know that I'm leaving but they need my assistance*
		I still in the Whatsapp group
		So I feel their pain and need to assist them
		I shall surrender company belonging untuk ENE paid my settlement
		Nur did update relieving temp 45.99

Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4, 5 dan 6 Surat Persetujuan tersebut

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ii) Perbualan Whatsapp Plaintif dan Syawal Ghazali iaitu Business Development Manager di Flowtrim Sdn. Bhd, rakan niaga Defendan, pada 07.11.2020 dengan membuat pernyataan :

SG	:	*Wht happen*
		?
Plaintif	:	*Epit macam keeling*
SG	:	*Psal gaji ke?*
Plaintif	:	*Duit aku Tak dapat lagi*
		Anak haram tu tak bayar lagi profit sharing aku lagi 4 juta
SG	:	*Fuhhh byk tu*
	:	●
	:	*Panigale da amik?*
Plaintif	:	*Johnny berhenti bulan 10 2020 dia dapat tau nama dia dah dikeluarkan dari SSM sejak october 2018*
	:	*Johnny pun Tak dapat duit dia lagi*
	:	*Lepas ni court case bro*
	:	*dan share holder 5 tahun penjara bro tipu sign*
SG	:	*Uh damn it*
	:	*Da confronted ke?*
Plaintif	:	*Dia bukak bubble z beli kedai 4 tingkat 3.35 juta*
		bro
	:	*Isnin aku Ngan Johnny p jumpa babi tu*
	:	*Syed Afisol pun dah kene game*
SG	:	*Try la settle baik2*
	:	*Knai lama dah*

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	:	*Industry kecik*
Plaintif	:	*Safuan Trisystem pun dah kene game*
SG	:	*[Syed Afisol pun dah kene game]*
		Ni apa kes plak?
Plaintif	:	*Tunggu ko je belum kene*
SG	:	*:`D*
Plaintif	:	*Dia janji macam keling ko ingat agency cari dia ke semua aku setup dia cerita buruk aku je kat org*
	:	*Duit ko dah dapat*
	:	*Ramai duit org dia tak bagi"*
SG	:	*Adehhhh*
	:	*Koyak ni*
	:	*Dia ada nk jumpa aku*
	:	*Xdan lg aku nk g*
Plaintif	:	*Ko dtg lah cerita dia akan tanya ko wan Ngan johnny ade cerita ape2 tak*
SG	:	*Hahah myb*
	:	*:`D*
	:	*Atau nk jual share cmpny*
	:	*Hahaha*

Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan, malah membuat kenyataan tidak benar dan tuduhan-tudahan yang berat

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Defendan terlibat dengan jenayah. Plaintif di sini yang juga melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut.

iii) Melalui satu hantaran pada 26.09.2020 di Whatsapp Status di akaun Plaintif dengan gambar Plaintif dengan sebuah kereta merah dengan kapsyen :

"Kerja macam sakai aku hanya dapat bergambar je... semoga Allah beri kekuatan pada org2 yang teranaya... maka haram lah pada org yg amik hak aku"

Di sini, Plaintif telah merujuk kepada Defendan yang bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan, malah secara innuendo merujuk kepada Defendan telah menganiaya Plaintif dengan mengambil hak Plaintif secara haram.

iv) Melalui satu hantaran pada 30.09.2020 di Whatsapp status di akaun Plaintif dengan gambar Plaintif bertopeng muka ("face mask") membelakangi dua buah kereta hitam dengan kapsyen :

"Hari ni Allah hantar org tgk kereta Saya... insyallah kita buat sampai jadi... yg lain sembang kari Tak pe Allah adil"

Di sini, Plaintif telah merujuk kepada Defendan yang bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan

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Defendan memburukkan pengurusan Defendan, malah secara innuendo merujuk kepada Defendan telah menipu dan tidak menepati janji terhadap Plaintif.

v) Melalui satu hantaran Whatsapp oleh Plaintif pada 17.09.2020 dengan Wan Mohd Khairul Syaman, seorang pegawai Tenaga Nasional Berhad (TNB) iaitu pelanggan Defendan. Plaintif telah menyatakan bahawa:

[Dokumen ENE Petro Form 24.pdf]

"Ni prove Saya bukan Partner Epit ... deal dia tarik aku join 50% : 50% profit sharing aku Start bawak Job balik ke ENE sejak 2017 sampai hari ni . Total dalam rm 25 juta untung 50% = 12.5 juta Tapi saya dapat bayaran tak sampai sejuta tak seperti Di janjikan...

Jadi berbekalkan duit simpanan dan Partner paid up rm 200k Saya nak jalan pakai ProSky"

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah pernyataan tersebut merujuk kepada Defendan telah menipu dan tidak menepati janji terhadap Plaintif.

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vi) Melalui hantaran Whatsapp oleh Plaintif pada 30.09.2020 dan 31.10.2020 dengan Mohd Khairul Amini Ramli ("KA"), Plaintif telah menyatakan bahawa:

30.09.2020

Plaintif : *As Salam Bang, Epit ni dah jauh menyimpang dari perjanjian asal ngan saya company yg dia Run ENE tu Saya bawak Balik job 25juta untung 12.5 juta payment yg dah masuk as of today baru 15 juta dulu ajak Saya join kata 50/50 profit sharing... banyak duit dia bawak lari keluar ... Saya nak keluar dari ENE meniaga tak gentle ...*

Skang ni dia nak offer saya 20/80 mana boleh Saya tgk dia punya expenses untuk business unit Saya 2018 2.5 juta, 2019= 2.3 juta dan 2020 = 2.3 juta mengarut ni macam expenses satu company dan business lain dia

30.10.2020

Plaintif : *Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar . Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam ... ni yg lagi Saya*

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nak meletop ni tak guna Partner ngan org Tak jujur ...

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah pernyataan tersebut merujuk kepada Defendan tidak kompeten, telah menipu, tidak menepati janji terhadap Plaintif dan tuduhan jenayah iaitu dengan banyak membawa lari duit.

vii) Melalui satu hantaran Whatsapp oleh Plaintif pada 12.11.2020 dengan Nurul Hanan, pegawai Petronas Carigali Sdn. Bhd., seorang pegawai kepada pelanggan Defendan, Plaintif telah dimaklumkan dan dibekalkan dengan bukti bahawa Plaintif telah menyatakan bahawa:

"Aku bawak balik PO 28 juta untung 14 juta janji nak split 50:50 cuma baya raku RM900k Lepas tu bila aku nak berenti dia declare nak bayar aku 1.2 juta

Memang aku nak fight masuk mahkamah semua untung rugi company aku tau sebab aku buat sale

Kalau ada setting pun kenapa nak selindung kata Partner Aku punya dia sebuk ikut aku

Lepas tu guna duit company beli property

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Sorok 2 dari aku

Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

Johnny p refer lawyer

Amanina berenti sebab semua org gaji dia potong 25% dari bulan 4 sampai 9 selama 6 bulan budak2 buat kerja dia tau untung company besar kenapa nak potong.

Ko hati2 ngan org macam ni dia sembang semua org dia kenal. Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

Dia buat aku susah

Skang dia kaya dia belagak macam tuhan

Wow dia sembang ngan aku dan Johnny Awak rapat ngan dia. Saya Kalau baik ngan org pun Tak mau cerita lah buat ape menunjuk2

Dia baru nak meniaga sembang tinggi sangat"

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang

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merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah dengan pernyataan tersebut merujuk kepada Defendan telah menipu, tidak menepati janji terhadap Plaintif dan pengurusan Defendan adalah berlagak, dan juga dengan tuduhan jenayah iaitu dengan menipu dengan meniru tandatangan individu lain dan menyalahgunakan wang syarikat.

Saksi-saksi dan bukti-bukti akan dipanggil dan dikemukakan di perbicaraan kelak.

~~43~~46. Hantaran-hantaran perbualan dan kapsyen-kapsyen whatsapp oleh Plaintif telah dihantar, diterbit dan dibaca oleh pihak-pihak yang berkenaan yang merupakan rakan niaga, pelanggan-pelanggan Defendan dan pihak ketiga.

~~44~~47. Tindakan Plaintif adalah dengan niat mencemar dan merosakkan perniagaan, nama dan reputasi baik Defendan dengan menulis dan menerbitkan pernyataan-pernyataan fitnah tersebut telah menjejaskan hubungan, kedudukan dan kepentingan ekonomi sebagai sebuah syarikat yang menjalankan perniagaan secara professional, berdaya saing, dan maju pada setiap masa yang material.

~~45~~48. Pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif sepertimana dinyatakan di atas dalam maksud semulajadi, biasa bermakna dan difahami bermakna bahawa Defendan adalah sebuah

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syarikat yang tidak amanah, tidak jujur, penipu dan diuruskan dengan teruk.

~~46~~49. Defendan di sini menyatakan bahawa pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif telah dengan sengaja dan dalam pengetahuan Plaintif adalah tuduhan palsu dan telah dibuat dengan mala fide setelah tidak berpuas hati dengan Defendan rentetan peristiwa perletakkan jawatan oleh Plaintif.

~~47~~50. Selain daripada fakta-fakta dan perkara-perkara yang telah Defendan plidkan di hadapan Mahkamah Yang Mulia ini, Defendan dalam tindakan di sini bergantung kepada perkara-perkara di bawah bagi tuntutan balas Defendan terhadap Plaintif:

a) Bahawa pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif terhadap Defendan dan pengurusan Defendan adalah fitnah yang membawa maksud Defendan dan pengurusan Defendan adalah tidak amanah, tidak jujur, penipu dan diuruskan dengan teruk;

b) Bahawa pengurusan Defendan adalah tidak jujur, penipu dan tidak kompeten menjalankan perniagaan;

c) Bahawa Defendan dan pengurusan Defendan adalah tidak bertanggungjawab, korup, tidak bertanggungjawab secara komersial;

d) Bahawa Defendan cenderung untuk berbohong kepada rakan-rakan niaga, pelanggan-pelanggan Plaintif;

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e) Bahawa Defendan adalah melakukan jenayah, penipuan dan menggunakan wang syarikat secara salah;

f) Bahawa pernyataan-pernyataan dan/atau perkataan-perkataan melalui hantaran-hantaran whatsapp yang mengandungi fitnah tersebut telah dihantar dan teredar di kalangan rakan-rakan niaga, pelanggan-pelanggan, pekerja-pekerja dan juga pihak-pihak ketiga, dan pihak-pihak yang dinyatakan di atas hanyalah pihak-pihak yang dalam pengetahuan Defendan yang mana telah menjatuhkan dan mencemar perniagaan, reputasi dan nama baik Defendan;

g) Bahawa Plaintif mempunyai pengetahuan mengenai pembelaan dan tuntutan Defendan di sini adalah cerminan sebenar dan Plaintif telah secara mala fide memfitnah Defendan;

48<u>51</u>. Defendan di sini menyatakan dengan tegas bahawa pernyataan-pernyataan dan/atau perkataan-perkataan fitnah Plaintif terhadap Defendan adalah tidak wajar dan menyebabkan perniagaan, nama dan reputasi Defendan mengalami kerosakkan dan kerugian. Defendan juga terpaksa mengambil tindakan bagi mengawal kerosakkan ("damage control") dengan mengeluarkan kos dan memperuntukkan masa atas perkara-perkara ini.

49<u>52</u>. Defendan di sini juga dengan tegas menyatakan bahawa Plaintif dan/atau secara alternatifnya telah secara sindiran ("innuendo") melalui kapsyen-kapsyen tersebut bermakna dan difahamkan bermakna bahawa Defendan adalah penipu, tidak amanah, tidak

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bertanggungjawab dan Defendan mengulangi pernyataan-pernyataan di sini.

~~50~~53. Pada keadaan-keadaan yang material di atas, perniagaan, nama dan reputasi Defendan telah mengalami kerosakkan serius, dimalukan dan terbeban atas fitnah-fitnah tersebut.

BUTIR-BUTIR MENYOKONG GANTIRUGI TERKILAN

~~51~~54. Plaintif tahu atau sepatunya mengetahui bahawa dakwaan-dakwaan yang terkandung dalam perkataan-perkataan yang diperkatakan dan dinyatakan tersebut adalah palsu dan tidak benar.

~~52~~55. Plaintif menyatakan dan membuat pernyataan-pernyataan dan mengandungi perkataan-perkataan tersebut yang diketahuinya adalah palsu dan tidak berasas dengan niat jahat untuk mencederakan reputasi Defendan di kalangan pelanggan-pelanggan, rakan-rakan niaga, pekerja-pekerja, dan pihak-pihak ketiga yang berkaitan dengan Defendan.

~~53~~56. Pernyataan-pernyataan serta perkataan-perkataan yang bersifat fitnah tersebut yang diadukan di dalam tindakan ini, seperti yang dibentangkan di perenggan 43 Tuntutan Balas di atas, telah ditulis, disunting dan disebarkan oleh Plaintif dan telah seterusnya disebarkan kepada pelanggan-pelanggan, rakan-rakan niaga, pekerja-pekerja, dan pihak-pihak ketiga.

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~~54~~57. Oleh yang sedemikian, Plaintif memohon kepada Mahkamah Yang Mulia ini bahawa Defendan menuntut balas perintah-perintah seperti berikut terhadap Plaintif:

a) Ringgit Malaysia Satu Ratus Ribu (RM 100,000.00) yang telah diberikan kepada Plaintif di bawah surat Persetujuan bertarikh 26.10.2020 dipulangkan kepada Defendan;

b) Plaintif hendaklah memulangkan kepada Defendan komputer riba bersama-sama maklumat-maklumat dan/atau data milik Defendan yang terkandung di dalam komputer tersebut kepada Defendan;

c) Satu injunksi untuk melarang dan menghalang Plaintif daripada menerbitkan pernyataan-pernyataan dan/atau perkataan-perkataan yang memburukkan, mencemar dan memfitnah Defendan melalui dirinya dan/atau agennya dan/atau wakilnya;

d) Gantirugi fitnah libel dalam jumlah Ringgit Malaysia Tiga Juta (RM3,000,000.00) atau apa-apa jumlah yang ditaksirkan oleh Mahkamah Yang Mulia ini;

e) Gantirugi Am;

f) Gantirugi Terkilan (Aggravated Damages);

g) Gantirugi Teladan;

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h) Suatu permintaan maaf secara terbuka dan penarikkan balik pernyataan-pernyataan dan/atau perkataan-perkataan yang telah dibuat;

i) Faedah ke atas jumlah penghakiman dari tarikh penerbitan dan pengedaran sehingga tarikh bayaran dan penyelesaian penuh;

j) Kos; dan

k) Lain-lain relif selanjutnya yang difikirkan adil dan sesuai oleh Mahkamah Yang Mulia ini.

Bertarikh pada 16 haribulan Ogos, 2022.

t.t

.....

Peguamcara bagi
Defendan

PERNYATAAN PEMBELAAN TERPINDA DAN TUNTUTAN BALAS ini difailkan oleh difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan dalam Tuntutan Asal dan Tuntutan Balas yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.35-1 (First Floor), Jalan Dataran Wangsa 1, Dataran Wangsa Melawati, 53300, Kuala Lumpur.
Tel : 03-4131.1557
Faks : 03-6738.0822
Email: law@fadhlisutris.com
[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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NOTIS PENGENDORSAN KEPADA TUNTUTAN BALAS

Kepada:

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465)
No.2, Jalan Panglima Awang 35/126D,
Alam Impian, 40470 Shah Alam Selangor

AMBIL PERHATIAN bahawa sekiranya kamu bercadang untuk membela kepada Tuntutan Balas ini, suatu kehadiran mestilah dimasukkan kepada Tuntutan Balas bagi pihak kamu dalam masa empat belas (14) hari selepas penyampaian Pembelaan dan Tuntutan Balas ini kepada kamu, termasuk hari penyampaian dan ambil perhatian bahawa dalam keingkaran kamu berbuat demikian, penghakiman boleh diberikan kepada kamu tanpa sebarang notis.

Arahan untuk memasukkan kehadiran

Seseorang yang disampaikan dengan Tuntutan Balas ini boleh memasukkan kehadiran secara sendiri atau melalui peguam sama ada (1) dengan menyerahkan boring yang sepatutnya dan dilengkapkan sepenuhnya, kepada Pendaftar Mahkamah Tinggi Malaya di Kuala Lumpur, atau (2) dengan menghantar secara pos kepada Pendaftar Mahkamah Tinggi Malaya di Kuala Lumpur, Kompleks Mahkamah Kuala Lumpur, Jalan Tuanku Abdul Halim, Kompleks Kerajaan, 50480 Kuala Lumpur, Wilayah Persekutuan Kuala Lumpur

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

IKATAN OTORITI DEFENDAN

(Berkenaan Permohonan Defendan di bawah Aturan 18)

Di failkan oleh Peguamcara Defendan
TETUAN FADHLI SUTRIS & ASSOCIATES No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur. Tel: 03-4131 1557 Faks: 03-4141 8824 Email : law@fadhlisutris.com [Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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BIL	KES	TAB
1.	HARAPAN PERMAI SDN BHD v. SABAH FOREST INDUSTRIES SDN BHD [2011] 1 CLJ 285	A
2.	DATUK IR CHE AMRAN MOHD YUSOFF v. YAYASAN MELAKA & ORS [2003] 1 CLJ 767	B
3.	GOVERNMENT OF MALAYSIA v. LIM KIT SIANG & ANOTHER CASE [1988] 1 CLJ 63	C
4.	HONAN PLANTATIONS SDN BHD v. KERAJAAN NEGERI JOHOR & ANOR [1998] 3 CLJ 253	D
5.	HODAN-R SDN BHD v. DATO' MOHD HISHAMUDIN HJ MOHD YUNUS [2007] 2 CLJ 701	E

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TAB A

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A

HARAPAN PERMAI SDN BHD

v.

SABAH FOREST INDUSTRIES SDN BHD

B

COURT OF APPEAL, PUTRAJAYA
LOW HOP BING JCA
HISHAMUDIN MOHD YUNUS JCA
CLEMENT SKINNER JCA
[CIVIL APPEAL NO: S-02-43-2007]

C

1 AUGUST 2010

CIVIL PROCEDURE: *Summary judgment - Application for - Whether burden on applicant - Whether plaintiff's action disclosed a reasonable cause of action - Whether plaintiff's action 'scandalous, frivolous or*

D

vexatious' - Whether plaintiff's action an abuse of the process of court - Rules of the High Court 1980, O. 18 r. 19(1)(a), (b), (d)

CIVIL PROCEDURE: *Summary judgment - Arguable issues - Illegality - Whether issue of illegality ought to be argued and resolved after a full trial - Rules of the High Court 1980, O. 18 r. 19(1)(a), (b), (d)*

E

TRADE AND INDUSTRY: *Forestry - Licence to take timber - Licence under Forest Enactment 1968 (Sabah) - Whether licence under s. 15 or under s. 24 of Enactment - Assignment of rights - Whether illegal - Forest Enactment 1968 (Sabah), ss. 15, 24*

F

The defendant held a timber licence issued under s. 24 of the Forest Enactment 1968 ('the Enactment') by the Director of Forestry, Sabah. The defendant entered into a Timber Sale Agreement ('TSA') with the plaintiff. Under the TSA the defendant

G

agreed to sell the plaintiff all the timber logs extracted from the area covered by the defendant's licence area. The defendant also executed a Power of Attorney appointing the plaintiff as its attorney. The plaintiff paid a sum of RM7m to the defendant as advance payment for all the timber purchased by the plaintiff under the

H

TSA. The defendant subsequently rescinded the TSA and revoked the power of attorney issued to the plaintiff on the basis that the agreement and the power of attorney were illegal in that they contravened s. 24(6) of the Enactment. The defendant later refunded the RM7m to the plaintiff. The plaintiff commenced an

I

action against the defendant for wrongful repudiation of the TSA

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and the revocation of the power of attorney. The defendant applied to strike out the plaintiff's claim under O. 18 r. 19(1) of the RHC 1980. The Registrar dismissed the application but the Judicial Commissioner ('JC') allowed the defendant's appeal and struck out the claim. The plaintiff thus appealed to the Court of Appeal. The plaintiff's counsel submitted that the JC had failed to consider whether the defendant's license came within s. 24(6) of the Enactment which prohibited any assignment. It was the plaintiff's contention that the licence was in fact a s. 15 licence agreement which did not prohibit any assignment. The plaintiff's counsel also contended that the issue of illegality under s. 24(6) of the Enactment ought to be decided after a full trial and ought not be summarily disposed of under O. 18 r. 19(a), (b) or (d) of the RHC 1980. The defendant's counsel submitted that the transaction between the parties was illegal as it purported to assign the defendant's rights in the licence to the plaintiff for consideration, contrary to s. 24(6) of the Enactment.

Held (allowing the appeal with costs by a majority)
Per Low Hop Bing JCA delivering the judgment of the court:

(1) The burden was on the defendant to prove that its application came within O. 18 r. 19(1)(a), (b) or (d). *Indah Desa Saujana Corporation Sdn Bhd & Ors v. James Foong Cheng Yuen, Hakim Mahkamah Tinggi Malaya & Anor* (refd). (paras 12 & 13)

(2) In considering the defendant's application under O. 18 r. 19(1)(a), the court only had to consider the pleadings to determine whether the plaintiff's statement of claim disclosed a reasonable cause of action. The test is whether on the face of the pleadings, the cause of action was obviously unsustainable. In the instant case, the plaintiff's statement of claim disclosed a reasonable cause of action based on a breach of contract. The defendant's ground under O. 18 r. 19(1)(a) was thus unmeritorious. *Letang v. Cooper* (refd); *New Straits Times (Malaysia) Bhd v. Kumpulan Kertas Niaga Sdn Bhd & Anor* (refd); *Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corp Bhd* (refd). (paras 14 & 15)

(3) The plaintiff's action could not be said to be 'scandalous, frivolous or vexatious' for the purposes of O. 18 r. 19(1)(b). (paras 16 & 17)

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(4) An abuse of the process of court under O. 18 r. 19(1)(d) of the RHC 1980 arises where the process of court has not been used in a *bona fide* manner and the process has been abused. In the instant case, the defendant had relied on the parties 'intention and purpose' to show illegality, which issue could hardly be resolved by affidavit evidence alone. Further, the plaintiff's enforcement of its rights would involve several issues of law and fact, which required mature consideration *via viva voce* evidence. Such evidence is to be adduced through the process of examination-in-chief, cross-examination and re-examination. In the instant case, it was both unsafe and unsound to conclude that the plaintiff's claim was an abuse of the process of court. *Gabriel Peter & Partners (Suing as a Firm) v. Wee Chong Jin* (refd); *Desa Saujana Corporation Sdn Bhd & Ors* (refd); *Hadi Hassan v. Suria Records Sdn Bhd & Ors* (refd); *Lai Yoke Ngan & Anor v. Chin Teck Kwee & Anor* (refd). (paras 19, 20 & 21)

(5) The issue of illegality is an issue which has to be argued and resolved after a full trial. Thus, the action in the instant case appeal was unsuitable for summary disposal under O. 18 r. 19(1)(a), (b) or (d). *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd HC* (refd); *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd CA* (foll); *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* (refd). (paras 28-31)

Per Hishamudin Mohd Yunus JCA (dissenting):

(1) The Judicial Commissioner was correct when she found that all the transactions in the instant case amounted to a transfer or an assignment of the licence from the defendant to the plaintiff. This was an irresistible conclusion. (paras 51 & 52)

(2) There was a contravention of s. 24(6) of the Enactment, the effect of which rendered the TSA and the power of attorney illegal and invalid. The Judicial Commissioner had correctly identified the pertinent issues before her. *Nam Seng Co v. Wing Ye (Tawau) Co Sdn Bhd* (refd). (paras 53-56)

(3) A licence under s. 15 of the Enactment may be only issued by the Minister and in respect of Forest Reserve land. In the instant case, the licence was issued by the Director of Forestry in respect of a piece of land not being Forest Reserve but an alienated piece of land. The plaintiff had initially taken the

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position that the licence was a s. 24 licence. It did not rebut the defendant's position that the licence was a s. 24 licence. It was not in issue before the JC that the licence was a s. 24 licence. The licence was correctly issued by the Director under s. 24 of the Enactment. The Director and the defendant had intended for the licence to be a licence under s. 24 of the Enactment and not a licence under s. 15. (paras 61-68)

(4) Even though the licence was not in the prescribed form, it was not open to a party unconnected with the licence - as in the case of the plaintiff - to allege that the licence was merely a licence agreement under s. 15. (para 68)

(5) Having taken the position that the licence was a s. 24 licence, it was not open to the plaintiff to take a contradictory or inconsistent position and to criticize the JC for not having considered whether the licence came within the ambit of s. 24 of the Enactment. The JC's judgment was based on the common premise of the parties that the licence was a s. 24 licence. This was not merely a case of raising a new ground on appeal - it was also a case of taking a contradictory (or inconsistent) position on appeal. On such grounds alone, the appeal ought to be dismissed. Further, the plaintiff had not raised the issue of the licence being a s. 24 licence in its pleadings or in its memorandum of appeal. *Manharlal Bhaichand Gathani v. Perwira Habib Bank (M) Bhd* (refd). (paras 69-73)

(6) Even assuming that the plaintiff's counsel could raise the issue that the licence was a s. 15 licence agreement, counsel's reliance on the Court of Appeal decision in *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* was misplaced since the decision was *per incuriam*. The Court of Appeal in the instant case was thus not bound to follow that decision. Further, the Federal Court had dismissed the appeal from the Court of Appeal's decision without a consideration of the merits in *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd*. Thus, there was no principle enunciated that bound the Court of Appeal in the instant case. *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* (CA)(not foll); *Young v. Bristol Aeroplane* (foll); *Government of Malaysia v. Lim Kit Siang* (refd); *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* (dist). (paras 74-82)

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Bahasa Malaysia *Translation Of Headnotes*

Defendan memegang lesen pembalakan yang dikeluarkan di bawah s. 24 Enakmen Hutan 1968 ('Enakmen') oleh Pengarah Perhutanan Negeri, Sabah. Defendan telah memasuki Perjanjian Penjualan Pembalakan ('PPP') dengan plaintif. Di bawah PPP defendan bersetuju untuk menjual kepada plaintif semua kayu balak yang dikumpul dari kawasan yang dilesenkan kepada defendan. Defendan juga memeterai satu surat kuasa wakil melantik plaintif sebagai wakil kuasa. Plaintif membayar jumlah RM7 juta kepada defendan sebagai bayaran duluan bagi semua kayu balak yang dibeli oleh plaintif di bawah PPP. Defendan kemudiannya membatalkan PPP dan membatalkan surat kuasa wakil yang dikeluarkan kepada plaintif atas dasar bahawa perjanjian dan surat kuasa wakil menyalahi undang-undang kerana bertentangan dengan s. 24(6) Enakmen. Defendan kemudiannya mengembalikan RM7 juta kepada plaintif. Plaintif memulakan tindakan terhadap defendan untuk penolakan salah PPP dan pembatalan surat kuasa wakil. Defendan memohon untuk membatalkan tuntutan plaintif di bawah A. 18 k. 19(1) KMT 1980. Pendaftar menolak permohonan tetapi Pesuruhjaya Kehakiman ('PK') membenarkan rayuan defendan dan menolak tuntutan. Plaintif kemudiannya merayu kepada Mahkamah Rayuan. Peguam plaintif berhujah bahawa PK telah gagal mempertimbangkan sama ada lesen defenden terjatuh di bawah s. 24(6) Enakmen yang melarang apa-apa penyerahhakkan. Peguam plaintif juga berhujah bahawa isu menyalahi undang-undang di bawah s. 24(6) Enakmen sepatutnya diputuskan selepas perbicaraan penuh dan tidak sepatutnya menolak secara terus di bawah A. 18 k. 19(a), (b) atau (d) KMT 1980. Peguam defendan berhujah bahawa transaksi di antara pihak-pihak yang terlibat menyalahi undang-undang kerana ia bertujuan untuk menyerahhakkan hak-hak defendan di dalam lesen kepada plaintif untuk balasan, bertentangan dengan s. 24(6) Enakmen.

Diputuskan (membenarkan rayuan dengan kos sebulat suara)
Oleh Low Hop Bing HMR menyampaikan penghakiman mahkamah:

(1) Bebanan adalah atas defendan untuk membuktikan bahawa permohonannya jatuh di bawah A. 18 k. 19(1)(a), (b) atau (d). *Indah Desa Saujana Corporation Sdn Bhd & Ors v. James Foong Cheng Yuen, Hakim Mahkamah Tinggi Malaya & Anor* (dirujuk).

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(2) Dalam mempertimbangkan permohonan defendan di bawah A. 18 k. 19(1)(a), mahkamah hanya perlu mempertimbangkan pliding-pliding untuk menentukan sama ada penyataan tuntutan plaintif mendedahkan apa-apa kausa tindakan yang munasabah. Ujiannya adalah sama ada pada permukaan pliding-pliding, kausa tindakan dengan jelasnya tidak boleh bertahan. Di dalam kes ini, penyataan tuntutan plaintif mendedahkan kausa tindakan yang munasabah berdasarkan satu kemungkiran kontrak. Alasan defendan di bawah A. 18 k. 19(1)(a) oleh itu tidak mempunyai merit. *Letang v. Cooper* (dirujuk); *New Straits Times (Malaysia) Bhd v. Kumpulan Kertas Niaga Sdn Bhd & Anor* (dirujuk); *Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corp Bhd* (dirujuk).

(3) Tindakan plaintiff tidak boleh dikatakan 'memeranjatkan, remeh dan menyusahkan' bagi tujuan A. 18 k. 19(1)(b).

(4) Satu penyalahgunaan proses mahkamah di bawah A. 18 k. 19(1)(d) RHC 1980 timbul di mana proses mahkamah tidak digunakan dengan cara *bona fide* dan proses telah disalahgunakan. Di dalam kes ini, defendan telah merujuk kepada 'tujuan dan niat' pihak-pihak yang terlibat untuk menunjukkan ketaksahan, isu yang tidak boleh diselesaikan dengan keterangan afidavit sahaja. Seterusnya, penguatkuasaan hak-hak plaintif akan melibatkan beberapa isu undang-undang dan fakta, yang memerlukan pertimbangan yang waras melalui keterangan *viva voce*. Keterangan seperti ini dikemukakan melalui proses pemeriksaan utama, pemeriksaan balas dan pemeriksaan semula. Di dalam kes ini, ia adalah tidak selamat dan tidak waras untuk membuat kesimpulan bahawa tuntutan plaintif adalah satu salah guna proses mahkamah. *Gabriel Peter & Partners (Suing as a Firm) v. Wee Chong Jun* (dirujuk); *Desa Saujana Corporation Sdn Bhd & Ors* (dirujuk); *Hadi Hassan v. Suria Records Sdn Bhd & Ors* (dirujuk); *Lai Yoke Ngan & Anor v. Chin Teck Kwee* (dirujuk).

(5) Isu ketaksahan adalah isu yang sepatutnya dihujahkan dan diselesaikan selepas perbicaraan penuh. Oleh itu, tindakan di dalam kes rayuan ini tidak sesuai untuk diputuskan secara terus di bawah A. 18 k. 19(1)(a), (b) atau (d). *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd (HC)* (dirujuk); *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd (CA)* (diikuti); *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* (dirujuk).

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Oleh Hishamudin Mohd Yunus HMR (menentang):

(1) Pesuruhjaya Kehakiman betul apabila beliau mendapati bahawa segala transaksi di dalam kes ini adalah satu pemindahan atau penyerahhakkan lesen dari defendan ke plaintif. Ini adalah satu-satunya konklusi yang boleh dibuat.

(2) Terdapat tentangan terhadap s. 24(6) Enakmen, kesan di mana menyebabkan PPP dan surat kuasa wakil haram dan tidak sah. Pesuruhjaya Kehakiman telah dengan betul mengenal pasti isu-isu berkaitan di hadapannya. *Nam Seng Co v. Wing Ye (Tawau) Co Sdn Bhd* (dirujuk).

(3) Lesen di bawah s. 15 Enakmen hanya boleh dikeluarkan oleh Menteri dan berkenaan dengan tanah Hutan Simpanan. Di dalam kes ini, lesen yang telah dikeluarkan oleh Pengarah Perhutanan Negeri berkenaan dengan sebidang tanah bukan hutan simpanan tetapi sebidang tanah terasing. Plaintif pada mulanya telah mengambil kedudukan bahawa lesen tersebut adalah lesen s. 24. Ia tidak menyangkal kedudukan defendan bahawa lesen tersebut adalah lesen s. 24. Ia bukan menjadi isu di hadapan Pesuruhjaya Kehakiman bahawa lesen adalah lesen s. 24. Lesen telah dikeluarkan oleh Pengarah di bawah s. 24 Enakmen. Pengarah dan defendan telah bertujuan untuk lesen tersebut menjadi lesen di bawah s. 24 Enakmen dan bukan lesen di bawah s. 15.

(4) Walaupun lesen bukan dalam format yang ditetapkan, ia tidak terbuka kepada sesuatu pihak yang tidak ada kaitan dengan lesen - seperti di dalam kes plaintif - untuk mendakwa bahawa lesen tersebut hanya lesen perjanjian di bawah s. 15.

(5) Dengan mengambil kedudukan bahawa lesen adalah lesen s. 24, ia tidak terbuka untuk pihak plaintif mengambil kedudukan yang bertentangan atau tidak konsisten dan untuk mengkritik Pesuruhjaya Kehakiman kerana tidak mengambil pertimbangan sama ada lesen itu berada dalam rangkuman s. 24 Enakmen. Penghakiman Pesuruhjaya Kehakiman adalah berdasarkan premis bersama pihak-pihak yang terlibat bahawa lesen tersebut adalah lesen s. 24. Ini bukanlah hanya kes membangkitkan alasan baru semasa rayuan - ia juga kes mengambil kedudukan yang bertentangan (atau tidak konsisten) semasa rayuan. Atas alasan-alasan tersebut sahaja, rayuan sepatutnya diketepikan. Seterusnya,

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plaintif tidak membangkitkan isu lesen menjadi lesen s. 24 di dalam pliding-plidingnya atau di dalam memorandum rayuan. *Manharlal Bhaichand Gathani v. Perwira Habib Bank (M) Bhd.*

(6) Walaupun ada anggapan bahawa peguam plaintif boleh membangkitkan isu yang lesen adalah lesen perjanjian s. 15, pergantungan peguam kepada keputusan Mahkamah Rayuan dalam *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* adalah salah kerana keputusan adalah *per incuriam*. Oleh itu Mahkamah Rayuan dalam kes ini tidak terikat dengan keputusan itu. Seterusnya, Mahkamah Persekutuan telah menolak rayuan dari keputusan Mahkamah Rayuan tanpa mempertimbangkan merit-merit yang terdapat dalam *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd.* Oleh itu, tidak terdapat prinsip-prinsip disebut yang mengikat Mahkamah Rayuan di dalam kes ini. *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* (CA) (tidak diikuti); *Young v. Bristol Aeroplane* (diikuti); *Government of Malaysia v. Lim Kit Siang* (dirujuk); *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* (dibezakan).

Case(s) referred to:

Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corporation Bhd [1993] 4 CLJ 7 SC ***(refd)***

Boey Oi Leng v. Trans Resources Corporation Sdn Bhd [2002] 1 CLJ 405 HC ***(refd)***

Chu Yin Foh v. Superwood Sawmill (S) Sdn Bhd [1999] 1 LNS 15 HC ***(refd)***

Cynsan Development Sdn Bhd v. Majunis Tumpi & Ors [1997] 3 CLJ 396 HC ***(refd)***

Gabriel Peter & Partners (Suing as a Firm) v. Wee Chong Jin [1988] 1 SLR 374 ***(refd)***

Government of Malaysia v. Lim Kit Siang & Another Case [1988] 1 CLJ 219; [1988] 1 CLJ (Rep) 63 SC ***(refd)***

Hadi Hassan v. Suria Records Sdn Bhd & Ors [2004] 8 CLJ 225 HC ***(refd)***

Indah Desa Saujana Corporation Sdn Bhd & Ors v. James Foong Cheng Yuen & Anor [2008] 1 CLJ 651 CA ***(refd)***

Kilang Papan Kuala Kangsar Sdn Bhd lwn. Koperasi Serbaguna Bekas-Bekas Polis Perak Bhd [1995] 3 CLJ 697 HC ***(refd)***

Lai Yoke Ngan & Anor v. Chin Teck Kwee & Anor [1997] 3 CLJ 305 FC

Letang v. Cooper [1964] 2 All ER 929 ***(refd)***

Lo Su Tsoon Timber Depot v. Southern Estate Sdn Bhd [1970] 1 LNS 68 FC ***(refd)***

Manharlal Bhaichand Gathani v. Perwira Habib Bank (Malaysia) Bhd [2002] 1 CLJ 449 CA ***(refd)***

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Nam Seng Co v. Wing Yew (Tawau) Co Sdn Bhd [1978] 1 LNS 128 FC ***(refd)***

New Straits Times (Malaysia) Bhd v. Kumpulan Kertas Niaga Sdn Bhd & Anor [1985] 1 LNS 1 FC ***(refd)***

Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd [2009] 6 CLJ 515 FC ***(dist)***

Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd [2010] 3 CLJ 779 FC ***(refd)***

Sundang Timber Co Sdn Bhd v. Kinabatangan Development Co Sdn Bhd [1976] 1 LNS 148 FC ***(refd)***

Tan Bing Hock v. Abu Samah [1967] 1 LNS 176 HC ***(refd)***

UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd [2007] 2 CLJ 665 HC ***(refd)***

UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd [2008] 4 CLJ 873 CA ***(foll)***

Young v. Bristol Aeroplane [1944] 1 KB 718 ***(foll)***

Legislation referred to:

Forest Rules Rules 1969 (Sabah), r. 3

Forest Enactment 1968 (Sabah), ss. 15, 24(6)

Rules of the Federal Court 1995, r. 137

Rules of the High Court 1980, O. 18 r. 19(1)(a), (b), (d), (2), O. 92 r. 4

Rules of the Supreme Court 1957, O. 25 r. 2

For the appellant - Alvin John (Lim Pitt Kong with him); M/s PK Lim & Co

For the respondent - Dato' Dr Cyrus Das (Norbert Yapp & Celestina Stuel Galid with him); M/s Jayasuriya Kah & Co

[Appeal from High Court, Kota Kinabalu; Suit No: K22-41-1997]

Reported by Andrew Christopher Simon

JUDGMENT

Low Hop Bing JCA:

Appeal

[1] On 17 May 1997, the respondent ("the defendant") applied to the learned registrar of the Kota Kinabalu High Court by way of summons in chambers under O. 18 r. 19(1)(a), (b) or (d) of the Rules of the High Court 1980 to strike out the appellant's ("the plaintiff's") writ of summons and statement of claim. The defendant's application was dismissed by the learned registrar.

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[2] The respondent's ("the defendant's") appeal against the above decision was allowed by the learned judicial commissioner who then struck out the plaintiff's action.

[3] Being dissatisfied, the plaintiff appealed to this court. We heard the appeal on 17 March 2010 and arrived at a majority decision. Low Hop Bing and Clement Allan Skinner JJCA concurred, while Mohd Hishamudin bin Mohd Yunus JCA dissented. We now give the grounds of the majority judgment.

Factual Background

[4] On 11 April 1997, the plaintiff issued a writ of summons and statement of claim against the defendant, seeking a declaration that the Timber Sale Agreement in writing dated 9 November 1992 entered into between the defendant and the plaintiff; and the irrevocable Power of Attorney of the same date ("the PA"), given by the defendant appointing Ritai Sdn Bhd as attorney, are still valid and subsisting. The plaintiff also prayed for specific performance thereof; alternatively, for damages, interests and costs.

[5] The defendant was the holder of a Special Timber Licence No. SK7/90 issued by the Director of Forestry, Sabah for and on behalf of the Government of the State of Sabah on 26 October 1990 to fell, convert and extract timber from a timber concession area consisting of approximately 258,584 hectares of timber land situated in the Forest District of Sipitang ("the concession"). The licence was for a period of five years expiring on 25 October 1995.

[6] By Timber Sale Agreement dated 9 November 1992, the defendant contracted to sell solely and exclusively to the plaintiff all merchantable timber logs extracted from approximately 13,984 hectares of the licence area, earmarked in the concession, upon the terms and conditions contained therein.

[7] Pursuant to the Timber Sale Agreement:

(a) The defendant gave the PA and appointed Ritai Sdn Bhd as its attorney with powers to, *inter alia*, manage and superintend the extraction and removal of merchantable timber therefrom and to enter into contracts and arrangements of all kinds in relation thereto and to generally exercise the powers granted therein; and

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(b) Under the "Mutual Letter of Undertaking" executed between the plaintiff and the defendant on 11 November 1992, the plaintiff paid a total sum of RM7million (RM3.5million on 9 November 1992 and RM3.5million on 12 May 1993) to the defendant as advance payments towards the purchase of merchantable timber logs from the defendant. The advance payments had been refunded to the plaintiff on 29 March 1995.

[8] On 22 August 1994, by letter to the plaintiff, the defendant rescinded the Timber Sale Agreement and revoked the PA, on the ground that the Timber Sale Agreement and the PA are illegal, allegedly being in contravention of s. 24(6) of the Sabah Forest Enactment 1968 ("s. 24(6)").

Illegality

[9] Learned counsel Dato' Dr Cyrus Das (assisted by Mr Norbert Yap and Ms Celestina Stuel Galid) submitted for the defendant that the transactions between the parties herein are illegal in that they have contravened s. 24(6), as the effect of the whole arrangement is to transfer or assign the defendant's rights in the Special Timber Licence (SK 7/90) to the plaintiff for a stated consideration. Reference was made to:

(a) *Lo Su Tsoon Timber Depot v. Southern Estate Sdn Bhd* [1970] 1 LNS 68 FC;

(b) *Sundang Timber Co Sdn Bhd v. Kinabatangan Development Co Sdn Bhd* [1976] 1 LNS 148 FC;

(c) *Tan Bing Hock v. Abu Samah* [1967] 1 LNS 176 HC;

(d) *Cynsan Development Sdn Bhd v. Majunis Tumpi & Ors* [1997] 3 CLJ 396 HC;

(e) *Chu Yin Foh v. Superwood Sawmill (S) Sdn Bhd* (Sandakan High Court Civil Suit No. S22-33-1996) [1999] 1 LNS 15 HC; and

(f) *Kilang Papan Kuala Kangsar Sdn Bhd lwn. Koperasi Serbaguna Bekas-Bekas Polis Perak Bhd* [1995] 3 CLJ 697 HC.

[10] Plaintiff's learned counsel Mr Alvin John (Mr Lim Pitt Kong with him) subscribed to the view that the issue of illegality under s. 24(6) has to be decided after a full trial and should not be

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summarily disposed of under O. 18 r. 19(1)(a), (b) or (d). They relied on *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* [2007] 2 CLJ 665 HC; and the appeals therefrom to the Court of Appeal and the Federal Court.

[11] The issue for our determination may be formulated as follows:

> Given the above factual background, and in view of s. 24(6) as well as the above authorities cited for the parties, is the issue of illegality, raised by the defendant in relation to the timber transactions between the parties herein, so plain and obvious as to attract the application of O. 18 r. 19(1)(a), (b) or (d)?.

[12] In our view, the applicant ie, the defendant herein bears the burden of proving that the application comes within the ambit of O. 18 r. 19(1)(a), (b) or (d). The defendant must discharge the burden by establishing that the issue of illegality comes within one of the grounds housed in O. 18 r. 19(1)(a), (b) or (d).

[13] In *Indah Desa Saujana Corporation Sdn Bhd & Ors v. James Foong Cheng Yuen & Anor* [2008] 1 CLJ 651, at p. 669, in delivering the judgment of this court, I said:

> [37] There is plethora of weighty authorities setting out trite principles governing an application under Order 18 r. 19(1). It has been consistently stated by our courts that any pleading may be struck out if it is obviously unsustainable. Such discretionary power may only be exercised in plain and obvious cases: see e.g. *Tractors Malaysia v. Tio Chee Hing* [1975] 2 MLJ 1; *Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corporation Bhd* [1993] 4 CLJ 7; *Pengiran Othman Shah Pengiran Mohd Yusoff & Anor v. Karambunai Resorts Sdn Bhd & Ors* [1996] 1 CLJ 257; *Sim Kie Chon v. Superintendent of Pudu Prison & Ors* [1985] 2 CLJ 449; [1985] CLJ (Rep) 293; and *Hj Hussin Hj Ali & Ors v. Datuk Hj Mohamed Yaacob & Ors & Other Cases* [1983] 2 CLJ 214; [1983] CLJ (Rep) 579.

[14] In considering the defendant's ground under O. 18 r. 19(1)(a), ie, that the plaintiff's pleading discloses no reasonable cause of action, we do not have to look at the affidavits as no such evidence shall be admissible: O. 18 r. 19(2). We must consider only the pleadings for the purpose of determining whether, in the instant appeal, the plaintiff's statement of claim discloses a reasonable cause

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of action. The expression "reasonable cause of action" means "simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person": per Diplock LJ in *Letang v. Cooper* [1965] IQB 222 at 242; [1964] 2 All ER 929 at 934. The test to be applied is whether on the face of the pleadings, the court is prepared to say that the cause of action is obviously unsustainable: See eg, *New Straits Times (Malaysia) Bhd v. Kumpulan Kertas Niaga Sdn Bhd & Anor* [1985] 1 LNS 1 FC; and *Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corporation Bhd* [1993] 4 CLJ 7 SC.

[15] Pursuant to O. 18 r. 19(1)(a), our perusal of the plaintiff's statement of claim shows that it avers a breach of contract based on the timber transactions between the parties, arising from the legal documents executed by them. It certainly discloses a reasonable cause of action. Hence, the defendant's ground under O. 18 r. 19(1)(a) is unmeritorious.

[16] In examining the defendant's ground under O. 18 r. 19(1)(b) ie, that the plaintiff's action "is scandalous, frivolous or vexatious" or (d) ie, that "it is otherwise an abuse of the process of the Court", we are entitled to refer to affidavits.

[17] In the context of O. 18 r. 19(1)(b), the word "scandalous" means wholly unnecessary and irrelevant, and not just unpleasant allegations: *Boey Oi Leng v. Trans Resources Corporation Sdn Bhd* [2002] 1 CLJ 405 HC. A pleading is "frivolous or vexatious" when it is obviously unsustainable. In the light of the factual background as alluded to above, we are of the view that the action instituted by the plaintiff against the defendant is not wholly unnecessary and irrelevant. Hence, it cannot be said to have come within the scope of the words "scandalous, frivolous or vexatious".

[18] An "abuse of the process of the Court" arises under O. 18 r. 19(1)(d) where the process of the court has not been used in a bona fide manner and the process has been abused: See eg, *Gabriel Peter & Partners (Suing as a Firm) v. Wee Chong Jin* [1988] 1 SLR 374 at 384 Spore CA; *Desa Saujana Corporation Sdn Bhd & Ors*, *supra*; and *Hadi Hassan v. Suria Records Sdn Bhd & Ors* [2004] 8 CLJ 225 HC. In this context, it is appropriate for us to examine the issue of illegality and s. 24(6) raised for the defendant.

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[19] Section 24(6) reads: A

> A licence shall be personal to the holder thereof and shall not be transferable in any manner whatsoever, and shall cease to be valid on the death of such holder or if such holder is declared to be insolvent under the provisions of any written law.

B

[20] The issue of illegality must be seen in the light of para. 7 of the defendant's affidavit in support, where it was deposed that "at the material time the intention and purpose of the parties entering into the purported Timber Sale Agreement was for the defendants to assign absolutely to the plaintiffs all the defendants' rights under C the said area comprising 13,984 hectares for a total cash consideration of RM7 million."

[21] The defendant's reliance on the 'intention and purpose' of the parties to show illegality can hardly be resolved by way of affidavits D only. The plaintiff's action sought, *inter alia*, to enforce its rights and pursue its obligations under the aforesaid agreements and PA. This is a legitimate means. The plaintiff's enforcement of these rights would involve several issues of law and fact, which require mature consideration *via viva voce* evidence. Such evidence is to be E adduced through the process of examination-in-chief, cross-examination and re-examination: See eg, *Lai Yoke Ngan & Anor v. Chin Teck Kwee & Anor* [1997] 3 CLJ 305 FC. It is both unsafe and unsound to conclude that the plaintiff's claim is an abuse of the process of the court, especially in the instant appeal where we F are asked to decide on the issue of illegality.

[22] We would now embark on a consideration of the authorities relied on by the parties herein. We wish to state categorically that the majority of the authorities cited for the defendant are not G concerned with the summary procedure under O. 18 r. 19(1). The issue of illegality raised therein had been disposed of only after a full trial. We have no hesitation in concluding that they actually militate against the substratum of the defendant's contention based on O. 18 r. 19(1).

H

[23] By way of elaboration, in *Lo Su Tsoon Timber Depot*, *supra*, the appeal to the Federal Court arose from the judgment of the High Court after a full trial. The learned trial judge held that in the agreement assigning rights in a licence for timber extraction, there was no fraud and that there was good consideration. The point of I

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illegality was raised for the first time before the Federal Court and the judicial pronouncement in relation to the issue of illegality was not based on O. 18 r. 19(1).

[24] In *Sundang Timber Sdn Bhd*, *supra*, the issue of illegality was raised at the trial before the High Court. Counsel for both parties agreed to take this issue as a preliminary point under O. 25 r. 2 of the (then) Rules of the Supreme Court. Consequently, the learned trial judge ruled that the timber transaction between the parties therein was illegal. On our part, we are of the view that *Sundang Timber Sdn Bhd*, *supra*, contains two distinguishing features *viz* there was a full trial, and the parties had agreed to invoke the (then) O. 25 r. 2 to argue the issue of illegality as a preliminary point. That judgment has no nexus with an O. 18 r. 19(1) situation.

[25] The matter raised in *Tan Bing Hock*, *supra*, before the High Court was a motion for an interim injunction to restrain the defendant from otherwise dealing, disposing etc of a forest area of 1,000 acres. In dismissing the application for interim injunction, on the ground that the agreement in question was null and void and illegal, Raja Azlan Shah J (now HRH the Sultan of Perak) made it clear that "on a motion like this it is usually undesirable to examine the evidence in detail because it so often happens that at the trial of the action when the witnesses go into the witness-box to give evidence and are cross-examined, the evidence appears in a different light from that in which it appears in cold print." We pause here for a moment to observe that the issue of illegality was not resolved summarily under O. 18 r. 19(1).

[26] It is significant to note that in *Cynsan Development Sdn Bhd*, *supra*, the issue of illegality was also resolved after a full trial and it was only after a careful evaluation of *viva voce* evidence that Richard Malanjum J (now CJ(SS)) arrived at an affirmative finding. Again, the determination on the issue of illegality was not based on O. 18 r. 19(1). His Lordship similarly disposed of the issue of illegality in *Chu Yin Foh*, *supra* after a full trial and not under O. 18 r. 19(1).

[27] Finally, in *Kilang Papan Kuala Kangsar Sdn Bhd*, *supra*, the issue of illegality in a timber transaction was raised and O. 18 r. 19 was invoked to strike out the plaintiff's writ of summons and statement of claim. The learned registrar of the High Court allowed the defendant's application, and ordered the defendant to refund the

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sum of RM55,000 to the plaintiff pursuant to the agreement in question. On appeal, Abdull Hamid Embong JC (now FCJ) affirmed the orders made by the learned registrar. We respectfully observe that Kilang Papan Kuala Kangsar Sdn Bhd, supra, must now be read in the light of the authorities cited for the plaintiff herein, which we would now analyse below.

[28] In *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* [2007] 2 CLJ 665 HC, the issue of illegality was considered after a full trial. The facts therein are substantially similar to those in the instant appeal. The dispute involves the same defendant, same Special Timber Licence No. SK 7/90 and the same area of 258,584 hectares. The same kind of legal documents *viz* the agreements for the extraction and purchasing of timber, and powers of attorney were granted. Only the plaintiff and the area for extraction are different. One of the agreed issues for determination was whether the two agreements entered into by the parties therein *viz* (1) to allow the plaintiff to extract commercial timber therefrom; and (2) to permit the plaintiff to extract commercial timber logs from the forest area in question and the powers of attorney appointing the plaintiff as attorney to, *inter alia*, manage the extraction and sale of timber therefrom were illegal and void ab initio. After a full trial, Sulong Matjeraie J (now JCA) gave the answer in the affirmative.

[29] On appeal, sub nom *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* [2008] 4 CLJ 873, the Court of Appeal, speaking through Gopal Sri Ram JCA (later FCJ) allowed the appeal, set aside the decision of the High Court and entered judgment in the appellant's (UNP Plywood Sdn Bhd's) favour for damages to be assessed. That judgment is illuminating. It provides a judicial landmark. It strikes at the very core of the question which we have to address in the instant appeal. It has established, *inter alia*, that the issue of illegality is an issue which is to be argued and resolved after a full trial. By way of analogy, it is clear that the action in the instant appeal, based on similar facts, is eminently unsuitable for disposal summarily under O. 18 r. 19(1)(a), (b) or (d).

[30] Sabah Forest Industries Sdn Bhd did not stop at the Court of Appeal, but had proceeded further to the Federal Court.

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[31] For the sake of completeness, we would make a brief mention of the proceedings subsequent to the aforesaid Court of Appeal judgment. In the final appeal, sub nom *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* [2009] 6 CLJ 515 FC, the issue concerns the framing of the questions for determination by the Federal Court. In a judgment delivered by Augustine Paul FCJ (as he then was), the Federal Court ("the first coram") examined all the six questions that have been posed, and dismissed the appeal without considering the merits. The appellant, Sabah Forest Industries Sdn Bhd, subsequently invoked the "review" procedure under r. 137 of the Rules of the Federal Court 1995 to pray for an order from another coram of the Federal Court ("the second corum"), so as to set aside the judgment delivered by first coram. Zaki Tun Azmi CJ (Malaysia) delivered the judgment for the second coram and dismissed the motion by *Sabah Forest Industries Sdn Bhd: See Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* [2010] 3 CLJ 779 FC.

Conclusion

[32] On the facts and the law, we held that the learned registrar was correct in dismissing the defendant's application under O. 18 r. 19(1)(a), (b) or (d), while the learned judicial commissioner has erred. The plaintiff's claim is not obviously unsustainable and therefore does not attract the application of any of the paragraphs housed in O. 18 r. 19(1)(a), (b) or (d). In the circumstances, we answered the aforesaid question in the negative. We therefore allowed this appeal, set aside the order of the learned judicial commissioner and remit the plaintiff's action to the High Court for an early trial. We awarded a sum of RM8,000 as costs to the plaintiff. The deposit is to be refunded to the plaintiff as appellant.

Hishamudin Mohd Yunus JCA:

[33] This is an appeal by the appellant against the decision of the learned Judicial Commissioner of the High Court of Kota Kinabalu of 15 December 2006. The learned Judicial Commissioner had allowed the respondent's appeal against the decision of the learned Deputy Registrar given on 12 September 2003. The learned Deputy Registrar by her decision had dismissed the respondent's application before her pursuant to O. 18 r. 19(1) and O. 92 r. 4 of the Rules of the High Court 1980. Dissatisfied with the decision of the learned Deputy Registrar the respondent had appealed to the judge in chambers.

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[34] The appellant was the plaintiff before the High Court whilst the respondent was the defendant. A

[35] The writ of summons and the statement of claim were filed on 11 April 1997.

[36] The statement of defence was filed on 4 June 1997. B

[37] The reply to the statement of defence was filed on 13 June 1997.

[38] The striking out (O. 18 r. 19(1) and O. 92 r. 4) application was filed on 17 May 1997. C

[39] In October 1990 the respondent/defendant was issued a Special Timber Licence No. SK7/90 by the Director of Forestry, Sabah. The licence was issued under s. 24 of the Forest Enactment, 1968 of Sabah ('Forest Enactment'). The licence covers an area of approximately 258,584 hectares ('the licence area') in the State of Sabah. The licence was for a period of five years expiring on 15 October 1995. The licence confers on the respondent the right to extract timber from the licence area. D E

[40] The licence area is in respect of an alienated land.

[41] On 9 November 1992 the respondent and the appellant/plaintiff entered into an agreement called 'Timber Sale Agreement'. By this agreement the respondent sold to the appellant all the timber logs extracted from 13,984 hectares ('Timber Sale Agreement area') of the licence area. F

[42] In furtherance of the Timber Sale Agreement, the respondent by an irrevocable power of attorney dated 9 November 1992 appointed the appellant as its attorney with certain powers. In summary, the power of attorney empowers the appellant to deal generally with the Forestry Department of Sabah and any other governmental authority in regard to the payment of royalties and other matters pertaining to the extraction of timber from the Timber Sale Agreement area. G H

[43] On the same date that the respondent and the appellant made the Timber Sale Agreement, the respondent entered into another agreement, but this time with a company called Ritai Sdn. Bhd. ('Ritai'). This company is very closely related to the appellant. The I

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board of directors of these two companies comprised the same persons. The parties refer to the agreement entered into as the 'Timber Extraction Agreement'. This Timber Extraction Agreement gives Ritai the right to extract all the timber from the Timber Sale Agreement area.

[44] In respect of the appellant company, the signatories of the Timber Sale Agreement and the Timber Extraction Agreement were the same people.

[45] In furtherance of the Timber Extraction Agreement, the respondent by an irrevocable power of attorney dated 9 November 1992 appointed Ritai Sdn. Bhd. as its attorney with powers to, among others, to communicate with the Forestry Department on matters pertaining to the extraction of timber in the Timber Sale Agreement area; to apply from the Government departments concerned the requisite permits for the purpose of the extraction of timber and to carry out the extraction of timber in the said area; to apply for timber removal licences and passes in connection with the extraction and removal of timber from the said area; and to enter into contracts and arrangements of all kinds in relation to the extraction of timber in the said area.

[46] Under an agreement called the 'Mutual Letter of Undertaking' executed between the respondent and the appellant on 9 November 1992, the appellant paid a sum of RM7 million to the respondent as an advance payment for all the timber purchased by the appellant from the respondent pursuant to the Timber Sale Agreement.

[47] By a letter of 22 August 1994 the respondent through its solicitors rescinded the Timber Sale Agreement and revoked the power of attorney issued to the appellant on the grounds that the agreement and power of attorney were illegal in that they contravened s. 24(6) of the Forest Enactment.

[48] On 29 March 1995 the respondent refunded to the appellant the advance payment of RM7 million.

[49] On 11 April 1997 the appellant commenced a writ action against the respondent for alleged wrongful repudiation of the Timber Sale Agreement and revocation of the power of attorney.

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[50] By a summons in chambers dated 17 May 1997 the respondent applied to strike out the appellant's claim under O. 18 r. 19(1) and the inherent jurisdiction of the court (O. 92 r. 4). The learned Deputy Registrar dismissed the application on 12 September 2003. The respondent appealed against the decision of the learned Deputy Registrar. As mentioned earlier, the learned Judicial Commissioner allowed the respondent's appeal on 15 December 2006; and the appellant's action was accordingly struck out with costs. Hence there is this appeal by the appellant.

[51] I am dismissing the appeal with costs. The following are my grounds.

[52] In my judgment the learned Judicial Commissioner was correct in allowing the respondent's appeal before her. She was correct in her findings that the transactions between the respondent and the appellant, the transactions between the respondent and Ritai, and the intimate relationship between the appellant and Ritai, when all viewed together, they all amounted to a transfer or an assignment of the licence from the respondent to the appellant. Based on the undisputed facts, I agree with the learned Judicial Commissioner that this is the irresistible conclusion.

[53] I accept the ruling of the learned Judicial Commissioner that there was a contravention of s. 24(6) of the Forest Enactment the effect of which was to render the Timber Sale Agreement and the power of attorney illegal and invalid (see *Nam Seng Co v. Wing Yew (Tawau) Co Sdn Bhd* [1978] 1 LNS 128; [1978] 1 LNS 128). In *Nam Seng* it was an interlocutory application by the defendant to strike out the plaintiff's writ summons and action on the grounds that the claim was based on an illegal contract by reason of a breach of s. 24(6) of the Forest Enactment. The High Court granted the application and the judgment of the High Court was, on appeal, upheld by the Federal Court.

[54] In arriving at her decision the learned Judicial Commissioner had referred to the relevant authorities. In her own words:

> In cases of *Lo Su Tsoon Timber Depot v. Southern Sdn Bhd* [1971] 2 MLJ 161; *Sundang Timber Co. Sdn Bhd v. Kinabatangan Development Co. Sdn Bhd* [1977] 2 MLJ 200 and *Nam Seng Co. v. Wing Yew (Tawau) Co. Sdn Bhd* [1978] 2 MLJ 198 the Court looked at the actual effect of the agreements in order to fathom the intention of the parties in executing the same. In all those cases, the

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Court found that the Agreements and Power of Attorney, in whatsoever manner they were cloaked, still had the actual effect of completely assigning away the rights of the Timber Licensee, which is in contravention of Section 24(6) of the Forest Enactment 1968.

In the case of *Cynsan Development Sdn Bhd v. Majunis Tumpi & Ors* [1997] 3 CLJ 396 His Lordship Richard Malanjum J (as His Lordship CJSS then was) observed, *inter alia*:

> ... (a) that before determining the legal status of such a transaction, the contents of the documents need to be scrutinized carefully to find the real effects on the parties:
>
> (b) ...
>
> (c) that allocating the various activities in the licensed area to several parties made no difference where the cumulative effect of the documents was the parting away of the interests or rights of a licensee under a timber licence issued ...

[55] In my judgment the learned Judicial Commissioner had correctly identified the pertinent issues before her. This is clear from her well-written grounds of judgment. She said:

> The primary issue before this Court is whether the transaction between the plaintiff and the defendant is illegal in view of the provisions of s. 24(6) of the Forest Enactment 1968. The provision is reproduced as below:
>
> > ... (6) A licence shall be personal to the holder thereof and shall not be transferable in any manner whatsoever, and shall cease to be valid on the death of such holder or if such holder is declared to be insolvent under the provisions of any written law ... .

[56] She then proceeded to examine the relationship between the appellant and Ritai and the five pertinent documents (namely, the two agreements, the two powers of attorney and the mutual undertaking) and made the following findings:

> Furthermore, having scrutinized 'CCS-11' which is the Company Search results on both the plaintiff and Ritai Sdn Bhd, it cannot be denied that both companies have the same common Board of Directors. Purely by visual comparison, the signatories for the Timber Sale Agreement and the Timber Extraction Agreement appear to be the same persons as well. This was the assertion by the defendant in their 2nd affidavit in support which assertion was not denied by the plaintiff in their 2nd Affidavit-In-Opposition.

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Having found that all the documents listed above must be read together in order to arrive at the cumulative effect of their contents, I then considered the implications of the same upon the plaintiff and the defendant. The question which begs an answer is this: Did the execution of the documents result in the defendant parting with all their interests in the timber licence for financial consideration?

(i) The Timber Sale Agreement provided, *inter alia*, the following terms:

Clause 1

In consideration of the terms and conditions herein contained the company will sell solely and exclusively to the purchaser all the said Merchantable Timber Logs extracted from the said land and transported to and stored in a log pond or log ponds of the company in Sipitang, Sabah.

Clause 2

The selling price of the said Merchantable Timber Logs irrespective of species and grades hereby agreed to be sold by the company to the purchaser shall be Malaysian Ringgit One Hundred and Forty Three and Cents Fifty Only per cubic metre plus an amount equivalent to the royalties and other charges leviable on the same at the rate current at the time of the sale.

Clause 5

The purchaser shall on behalf of the company pay to the Forestry Department, Sabah the following:

(a) Royalties

(b) Timber Development Charge (if any)

(c) Timber premium (if any)

Clause 6

Prior to the effecting payment under Clauses 4 and 5 hereof the purchaser shall on behalf of the company pay all extraction fees on the timber logs sold and purchased under this agreement which is due and payable to the contractor under the Company's Extraction Agreement with the said contractor.

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Clause 7

The purchaser shall be able to export the said Merchantable Timber Logs purchased under this agreement through the company's export quota and thereby no restriction shall be imposed on the said export quota nor shall there be any fees imposed on the purchaser for the use of the company's export quota ...

Clause 8

Royalty rebates with regard to royalty payment in Clause 5 hereof shall be made payable to the purchaser and in the event the rebates are made to the account of the company by the relevant state authority, the said rebate shall be deemed as debt due and payable by the company to the purchaser and the purchaser shall have the option to claim on the said debt and/or to contra against subsequent royalties payable to the Forestry Department, Sabah, Malaysia.

From a reading of the above Clauses, it can be concluded that by this Timber Sale Agreement, the plaintiff has effectively assumed control over all of the defendant's rights and obligations flowing from the Timber Licence in return for financial consideration. Coupled with Clauses 1 to 5 of the power of attorney and the Letter of Mutual Undertaking there can be no doubt that it was the intention of the parties and the effect of the documents to completely assign away the defendant's rights and interests under the Timber Licence to the plaintiff with the consideration of RM7 million. Both the irrevocable powers of attorneys were granted with full power to the donees to deal with all matters in connection with the licence until all merchantable timber from the said land shall have been fully extracted and sold by the plaintiff.

It is the plaintiff's contention that neither documents on the face of it mention the objective 'to fell, convert, and extract timber' hence it cannot be said that the defendant has assigned away their rights under the timber licence. With respect, I am unable to agree with learned counsel's submission. Affidavit and documentary evidence have shown that the plaintiff and the defendant executed the timber sales agreement and a power of attorney was also given to the plaintiff. The (defendant) had also at the same time signed a Timber Extraction Agreement with Ritai Sdn Bhd and also gave a power of attorney to them allowing them to effectively assume all the rights and obligations accorded to the defendant under the timber licence. The link between the plaintiff and Ritai Sdn Bhd, as

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evidenced by the Forms 49 of both companies, are their common Board of Directors who were signatories for both agreements. Despite the plaintiff's protestations, there was no denying that fact. For all intent and purpose, there was no lifting of corporate veil. A casual scrutiny of the circumstances and documents would be sufficient to attract the irresistible conclusion that the plaintiff and Ritai Sdn Bhd are two entities which are intimately connected to one another. Had the transactions have continued to its natural conclusion, I have no doubt that the entire logging operation would have been under the control of the plaintiff and the defendant would '... merely sit back and collect the balance of their dues as agreed for parting with their rights thereunder...' (See: *Cynsan (supra)*)

[57] In the appeal before this court, the appellant, by its written submission, submits as follows:

3. The LJC never legally and factually considered whether the Respondent's Timber Licence No. SK7/90 issued by the Director of Forestry on 16.10.1990 comes within the ambit of s. 24 of the Forest Enactment, 1968 and therefore caught by section 24(6) thereof which prohibits any assignment of such timber licence. This was the fundamental issue which the LJC ought to consider but failed to do so.

[58] Then the appellant proceeded to contend:

6. It goes without saying that if the Respondent's Timber Licence No. SK7/90 (See: ROA, pp 184 - 233) does not come within the scope of s. 24 of the Forest Enactment, 1968, then in such case, the Appellant's appeal ought to be allowed.

[59] During the oral submission before this court, during the appellant's reply submission, when queried by me, the learned counsel for the appellant, Encik Alvin John, made it clear to the court that the appellant's position was that the licence issued to the respondent is a s. 15 licence agreement and not a s. 24 licence. He then went on to argue that there is nothing in s. 15 of the Forest Enactment which prohibits the assignment of a licence agreement issued under that section.

[60] At this juncture I think it is appropriate that I should set out the provision of s. 15 of the Forest Enactment (the provision as it stood in the year 1990, the year the licence was issued). It states:

Acquisition of rights in Forest Reserve.

15. (1) Save as otherwise provided in this Enactment and notwithstanding the provisions of any other State law, no right of any description in or over a Forest Reserve or any

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part thereof shall be acquired except by virtue, and in accordance with the terms of, a licence agreement entered into by the Minister or of a licence.

(2) Any licence agreement entered into by the Minister under this section shall be subject to any admitted rights or conceded privileges and any special conditions attaching to the Forest Reserve concerned under the provisions of this Enactment, but subject thereto, where any provision of such licence agreement is inconsistent with any provision of this Enactment compliance with the provisions of such licence agreement shall be deemed to be compliance with the provisions of this Enactment;

Provided that Forest Reserve of Class I and Class VI may not be licensed or caused to be licensed for taking out forest produce.

[61] It is to be observed from the above provision that a licence under s. 15 or a licence agreement under s. 15 can only be issued in respect of a Forest Reserve. And with regard to a licence agreement under s. 15, it can only be issued by the Minister.

[62] Now it is important to recall that in the case before this court the licence was issued by the Director of Forestry, and the licence area is not a Forest Reserve but an alienated land.

[63] Now, this being the position that Encik Alvin John takes (that the licence in the present case is a licence agreement under s. 15), with respect, such a contention is rather startling. For this position contradicts the position taken by the appellant before the learned Deputy Registrar and the learned Judicial Commissioner at the High Court. For it is the position taken by the appellant all along in its pleadings that the licence is a s. 24 licence. I refer to para. 13 of the statement of claim that states:

13. At all material times, the said Agreement and /or the said Power of Attorney did not amount to an assignment of the said Licence and did not contravene Section 24(6) of the Forest Enactment 1968 since the Defendant's special licence related solely to extraction of forest produce and not to its subsequent sale.

[64] To reiterate what I have stated earlier, nowhere in its statement of claim does the appellant rebut the position taken by the respondent that the licence was a s. 24 licence (and that the appellant had contravened sub-s. (6) of s. 24). On the contrary,

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para. 13 of the statement of claim implies strongly that it is also the appellant's position that the licence was a s. 24 licence. If, indeed, the position of the appellant is that the licence is a s. 15 licence agreement, then para. 13 would be the opportune moment to express that position in no uncertain terms. But, remarkably, not a word is mentioned either in the statement of claim or in the reply to the statement of defence to the effect that the licence was a s. 15 licence agreement. I must add my observation that even the appellant's reply to the statement of defence strongly implies that the appellant takes the position that the licence is a s. 24 licence (see paras. 2, 9 and 23 of the reply to the statement of defence). Take para. 23 of the reply as an example. This paragraph states:

> 23 ... The presence of the Director of Forestry at the Defendant's Board of Directors meeting gives credence to the plaintiff's contention that the transaction between the Plaintiff and the Defendant [was] not tainted by illegality especially in the light of the fact that the prohibition under Section 24(6) of the Forest Enactment 1968 was in force at the material time and the Director of Forestry must obviously have directed his mind to this prohibition before consenting to the transaction.

[65] Further even in its affidavits in opposition (to the striking out application) and in its written submission before the learned Judicial Commissioner the appellant had taken the position that the licence was a s. 24 licence.

[66] In short it is not in issue at all before the learned Judicial Commissioner that the licence was a s. 24 licence. Indeed the licence itself states that it is a s. 24 licence; for the licence ends in the following form:

> In Witness Hereof, The Director for and on behalf of the Government of the State of Sabah and empowered by Section 4 and 24 of the Forest Enactment, 1968 has hereunder set his hand on this 26th day of October 1990.
>
> [Illegible signature]
> ...
>
> Director of Forestry

[67] In my judgment, the licence was correctly issued by the director under s. 24 of the Forest Enactment as the land was an alienated land and not a Forest Reserve. Section 24 states (as the provision stood in 1990, the year the licence was issued):

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Licences

24. (1) Subject to the provisions of this Enactment, the Director or any person authorized by him in that behalf may issue licences for the doing of all or any of the acts prohibited by sections 20 and 23 of this Enactment upon such conditions and subject to the payment of such fees or royalties (if any) as may be prescribed or as may be specified in such licence.

(2) A licence unless sooner revoked or cancelled shall be valid for such period as may be specified therein.

(3) A licence relating to the doing of any act in a Forest Reserve shall not be expressed as being valid for a period exceeding five years, and if by mistake or otherwise such licence is expressed to be valid for a longer period or contains no period of validity it shall cease to be valid at the expiration of five years from the date of issue thereof.

(4) Where a licence relates to the doing of any act on State land other than a Forest Reserve:

(a) It shall not, without the written consent, either general or special, of the Director of Lands and Surveys, be valid for a period exceeding one year; and

(b) Notice of the issue thereof shall be given by the person by whom it was issued to the Assistant Collector of Land Revenue of the district in which the land concerned is situated.

(5) No licence shall be issued for the doing of any act on alienated land except on application by, or with the written permission of, the owner or lessee of such land.

(6) A licence shall be personal to the holder thereof and shall not be transferrable in any manner whatsoever, and shall cease to be valid on the death of such holder or if such holder is declared to be insolvent under the provisions of any written law.

[68] In my judgment it is clear in the present case that what was intended to be issued by the parties (meaning the director and the licensee/respondent) is a licence under s. 24 of the Forest Enactment and not a licence agreement under s. 15 of the same.

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Firstly, a licence agreement under s. 15 (as opposed to a mere licence) can only be issued by the Minister. It cannot be issued by the director. On the other hand, a licence under s. 24 can only be issued by the director. It cannot be issued by the Minister. Secondly a licence agreement under s. 15 cannot be entered into by the Minister in respect of an alienated land. It can only be entered into in respect of a Forest Reserve. Section 15 is very clear on this. There is no ambiguity at all. In the present case, there is no dispute at all that the licence area is alienated land and not a Forest Reserve. Thirdly, it is the intention of the State Director of Forestry and the respondent (the licensee) that the licence be issued under s. 24 as this is clearly manifested by them when they have in the licence specifically referred to s. 24 of the Forest Enactment, and that nowhere in the licence was s. 15 of the Forest Enactment ever mentioned. It is, however, true that the licence is not in any of the forms as prescribed by Schedule III of the Forest Rules, 1969. Instead, it is more in the form of an agreement. But just because the licence is not in the prescribed form but in the form of an agreement it is not, to my mind, opened to any party, particularly a party unconnected at all with the licence such as the appellant (putting aside the private agreements and the powers of attorney), to allege that the licence is a licence agreement under s. 15. What is the basis for the appellant to so allege when s. 15, in the first place, does not prescribe the format of a licence agreement under s. 15? At best the appellant can only allege that the licence is invalid by reason of noncompliance with r. 3 of the Forest Rules (for not being in the prescribed format). But, of course, such an argument is not opened to the appellant; for such an argument would only favour the respondent.

[69] Anyhow, going back to issue on the approach that had been taken by the appellant before the High Court, having taken the position before the learned Deputy Registrar and before the learned Judicial Commissioner that the licence was a s. 24 licence, which position is the same as that taken by the respondent before the learned Deputy Registrar and learned Judicial Commissioner, it is now not opened to the appellant to take a contradictory or inconsistent position and to criticize the learned Judicial Commissioner before this court on appeal for not having considered

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'... whether the respondent's Timber Licence No. SK7/90 issued by the Director of Forestry on 16 October 1990 comes within the ambit of s. 24 of the Forest Enactment, 1968 ... ' ; and to further allege in its written submission that:

> 5. The LJC pre-supposed and assumed that the said timber licence is simply caught by s. 24(6) of the Forest Enactment, 1968, which was a misdirection in law, and therefore, her decision cannot stand.

[70] Such a tactic is unfair and unethical. In fairness to the learned Judicial Commissioner, clearly she did not make any presupposition or assumption in her judgment. Her judgment is based on the common premise of parties that the licence was a s. 24 licence.

[71] In the present case, it is not merely a case of raising a new ground on appeal: it is also a case of taking a contradictory (or inconsistent) position on appeal.

[72] On the above grounds alone the appeal ought to be dismissed (see *Manharlal Bhaichand Gathani v. Perwira Habib Bank (Malaysia) Bhd* [2002] 1 CLJ 449 pertaining to the issue of raising a new ground on appeal).

[73] But there is another reason why the appellant's appeal ought to be dismissed. It is to be observed that the issue of the licence being a s. 15 licence, and not a s. 24 licence, is not only not raised in the appellant's pleadings or before the High Court (be it before the Deputy Registrar or before the learned Judicial Commissioner), it is also not raised in any of the grounds of the memorandum of appeal. Hence this 's. 15 licence' argument ought not to be allowed at this appellate stage.

[74] However, despite the fact that the appellant is precluded from raising the issue (that the licence is a licence agreement under s. 15 of the Forest Enactment) for the reasons given above, nonetheless, before this court the learned counsel urges the court to consider his argument that the licence was a s. 15 licence agreement. For the sake of being comprehensive in this judgment, I shall assume for the moment that the appellant may raise this issue before this court. Now, in his argument pertaining to s. 15,

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the learned counsel cites the Court of Appeal case of *UNP Plywood Sdn Bhd v. Sabah Forest Industries Sdn Bhd* [2008] 4 CLJ 873, where the Court of Appeal deemed the licence issued in the case before it to be a s. 15 licence agreement and not a s. 24 licence although the licence had the same endorsement at the end of the licence just as in the present case. The reasons given by the Court of Appeal are these:

> [4] The respondent's case is that the licence in question was issued under s. 24 of the Forest Enactment 1968. For this contention the respondent relied on the following endorsement at the foot of the Timber Licence (see at p. 337 of vol. 2 of the record of appeal) as follows:
>
> > In Witness Hereof, The Director for and on behalf of the Government of the State of Sabah and empowered by Section 4 and 24 of the Forest Enactment, 1968 has hereunder set his hand on this 26th day of October 1990.
>
> [5] Under r. 3 of the Forest Rules 1969 a licence issued under s. 24 must be in Form I, Form IIA or Form IIB. The licence here is not in any of the said prescribed Forms. It is not correct to construe the timber licence as a s. 24 licence just because the Director says it is signed or issued under s. 24. We are therefore unable to agree with this contention of the respondent.

[75] Thereafter, at para. 9 of the judgment the Court of Appeal went on to hold:

> [9] So too here. We find that the agreements in the present instance do not amount to an assignment. In any event we would add that the licence issued to the respondent by the State does not prohibit assignment in any of its clauses. It is also pertinent to note that cl. 19 of the licence held by the respondent provides for an arbitration between itself and the Government in the event of any dispute. Arbitration clauses are normally found in contracts or agreements. Hence there is much force in the appellant's contention that the licence was a licence agreement under s. 15 and not a licence under s. 24 of the Enactment.

[76] The learned counsel for the appellant contends that on the authority of the Court of Appeal's decision in *UNP Plywood* this court ought to regard the licence in the present case as a licence agreement issued under s. 15 notwithstanding that the licence was issued by the director under s. 24 of the Forest Enactment.

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[77] With respect to learned counsel, this argument must also be rejected.

[78] With the greatest respect to the Court of Appeal in *UNP Plywood*, I am in agreement with Dato' Cyrus Das, the learned counsel for the respondent, that the judgment of the Court of Appeal was *per incuriam*. Firstly, a s. 15 licence agreement (as opposed to a mere s. 15 licence) can only be lawfully issued by the Minister. Legally, a licence agreement under s. 15 cannot be issued by the director. Secondly, in *UNP Plywood* the land in question was an alienated land but a s. 15 licence agreement can only be issued in respect of a Forest Reserve, and not in respect of an alienated land. It is important to note that it is not stated anywhere in the judgment of the Court of Appeal in *UNP Plywood* as to whether the land in that case was an alienated land or was a Forest Reserve. Indeed, the judgment of the Court of Appeal is silent as to the status of the land in question (whether it is a Forest Reserve, or whether it is State land, or whether it is alienated land). Be that as it may, the matter went on appeal to the Federal Court; and it is from the Federal Court's judgment that one gets to know that the land in that case was an alienated land and not a Forest Reserve; for the Federal Court in its judgment in S*abah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd* [2009] 6 CLJ 515 mentioned in passing that the land in question was alienated land. For at para. 10 of its judgment it said (at p. 528):

> [10] ... It must immediately be observed that Question Number 3 is not relevant as it relates to a transfer of rights or privileges in a forest reserve **while the land in this case is alienated land**. [Emphasis added.]

[79] In the Court of Appeal case of *UNP Plywood* the issue as to whether a licence agreement can lawfully be issued in respect of an alienated land was not an issue before the court. The Court of Appeal did not address its mind to this issue. Indeed, this issue was never raised at all before the Court of Appeal. But what happened was that, with the greatest respect, the Court of Appeal had (a) erroneously assumed that a licence agreement can lawfully be issued in respect of an alienated land; and (b) erroneously assumed that the director may issue a licence agreement under s. 15. The Court of Appeal did not consider the question as to whether the Director

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(as opposed to the Minister) can enter into a licence agreement under s. 15. Likewise, this specific issue was not placed before the Court of Appeal for the court to consider. In *Nam Seng* Lee Hun Hoe CJ (Borneo) said (at p. 200):

> Section 15 states clearly that no right of any description in a Forest Reserve can be acquired except (a) in accordance with the terms of a licence agreement entered into by the Minister or (b) by virtue of a licence. While a licence under section 24 can be issued by a conservator or his representative, a licence agreement can only be entered into by the Minister concerned under section 15. The definitions of 'licence' and 'licence agreement' under section 2 mentioned previously clarify the difference between the two. In the present case the purported licence agreement does not indicate that it was entered into by the Minister concerned.

[80] Hence, with respect, I do not propose to follow the Court of Appeal's decision in *UNP Plywood*. In *Young v. Bristol Aeroplane* [1944] 1 KB 718 it was held that a Court of Appeal is not bound to follow a decision of its own if it is satisfied that the decision was given *per incuriam*, eg, where a statute or a rule having statutory effect which would have affected the decision was not brought to the attention of the earlier court. This principle was cited with approval by our Supreme Court in *Government of Malaysia v. Lim Kit Siang & Another Case* [1988] 1 CLJ 219; [1988] 1 CLJ (Rep) 63.

[81] Now, a few words need to be said of the Federal Court judgment in *Sabah Forest Industries Sdn Bhd v. UNP Plywood Sdn Bhd*. The Federal Court in its conclusion said (at p. 529):

> [14] The corollary is that none of the six questions that have been posed can be answered with the result that the appeal must be dismissed without a consideration of its merits.

[82] Hence as noted in the above passage the appellant's (at the Federal Court it was Sabah Forest Industries who was the appellant) appeal was dismissed without consideration of its merits. Even then, with respect to the six questions posed to the Federal Court, none of them deal with the question as to whether a licence or licence agreement under s. 15 of the Forest Enactment could be issued in respect of an alienated land; or with the question as to whether the Director (as opposed to the Minister) may enter into a licence

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agreement under s. 15 of the Forest Enactment. Indeed, ultimately, the Federal decided not to answer any of the six questions posed to the court. It follows then that the Federal Court did not enunciate any principle at all that binds this court. (Subsequently the Federal Court rejected an application by Sabah Forest Industries pursuant to r. 137 of the Rules of the Federal Court 1995 for the Federal Court to review its decision.)

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TAB B

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DATUK IR CHE AMRAN MOHD YUSOFF
v.
YAYASAN MELAKA & ORS

High Court Malaya, Melaka
Low Hop Bing J
[Originating Summons No: 24-431-2001]
7 January 2003

JUDGMENT

Low Hop Bing J:

Application

Enclosure (48) is the first and second defendants' application under O. 18 r. 19(1)(b), (c) or (d) of the Rules of the High Court 1980 to strike out the plaintiff's writ and statement of claim, or alternatively part thereof, ie, para. 24(a), (b), (c), (d), (e) and (g).

Procedural Objection

At the outset, En. T. Naraedran, learned counsel for the plaintiff, relied on *Thiruchelvasegaram Manickavasegar v. Mahadevi Nadchatiram* [2001] 1 MLRH 733; [2000] 5 MLJ SUPP 465; [2001] 3 CLJ 743; [2000] 2 AMR 1278 in raising a procedural objection that the instant application based on O. 18 r. 19(1)(b), (c) or (d) has taken the plaintiff by surprise as the use of these limbs in O. 18 r. 19(1) is not acceptable because in meeting with the application, the plaintiff has to respond to all the limbs.

In response, En. Rizal Dato Jawhar, learned counsel for the first and second defendants, contended that the first and second defendants have correctly applied O. 18 r. 19(1)(b), (c) or (d) disjunctively as the word used herein is "or".

For the purpose of putting the entire provisions of O. 18 r. 19(1) in proper perspective, it is necessary for me to reproduce these provisions in extenso as follows:

(1)The court may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement, of any writ in the action, or anything in any pleading or in the indorsement, on the ground that:

(a)it discloses no reasonable cause of action or defence, as the case may be; or

(b)it is scandalous, frivolous or vexatious; or

(c)it may prejudice, embarrass or delay the fair trial of the action; or

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(d)it is otherwise an abuse of the process of the court;

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

Since limb (a) above has not been relied upon by the first and second defendants, I will only refer to the other three limbs in my judgment.

In my view, the use of the word "or" by the first and second defendants in respect of (b), (c) or (d) in O. 18 r. 19(1) indicates simply and more than clearly that the three limbs are applied disjunctively. This application is therefore a far cry from *Thiruchelvasegaram, supra* , in which the application under O. 18 r. 19(1) had employed the words "and/or" throughout in relation to the three limbs *viz* (b), (c) "and/or" (d), which had naturally led Abdul Malik Ishak, J to hold that such cumulative use was unacceptable, since the limbs under O. 18 r. 19(1) are disjunctive. In the different circumstances prevailing before me, the plaintiff's reliance on *Thiruchelvasegaram, supra* , is without merits.

In *Leong Peng Kheong & Anor v. Dawntree Properties Sdn Bhd* [2001] 4 MLRH 337; [2002] 2 MLJ 186; [2002] 1 CLJ 602 , in which case it was similarly held by the learned registrar and Azmel, J as being cumulative and therefore in non-compliance with the disjunctive requirement of O. 18 r. 19(1). Again, as in *Thiruchelvasegaram, supra, Leong Peng Kheong, supra*, offers no assistance whatsoever to the plaintiff's contention.

In my view, it is essential for an application under O. 18 r. 19(1) to be drafted in such a manner as to satisfy the disjunctive provisions therein, by avoiding the use of the cumulative word "and" and by merely using the critically important disjunctive word "or": *Pegasus Engineers Sdn Bhd v. Sambu (M) Sdn Bhd* [1998] 1 MLRA 418; [1998] 4 MLJ 129; [1998] 3 CLJ 677; [1998] 4 AMR 3293 CA.

The application herein by using the word "or" has undoubtedly complied with by this disjunctive requirement. Therefore I hold that the procedural objection raised for the plaintiff cannot be sustained and is hereby overruled.

Merits Of Application

Plaintiff's Locus Standi

In support of the application, it was contended for the first and second defendants that the plaintiff lacks the capacity or *locus standi* to bring this action against the first and second defendants.

On the other hand, it was submitted for the plaintiff that this action which was commenced by way of an originating summons had on 21 January 2002 been amended to include the plaintiff's representative capacity and the originating summons was subsequently converted on 28 February 2002 to a writ which is based on a derivative action by the plaintiff as a minority shareholder in the interest and for the benefit of the company which is the third defendant.

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After a careful consideration of the aforesaid submissions, I am of the view that the immediate issue to be addressed is whether the plaintiff's action is defeated by the general rule in *Foss v. Harbottle* [1843] 2 HARE 461, ('the rule"). If so defeated, this application would succeed. On the other hand, if the plaintiff's action comes within one of the exceptions to the rule, then the plaintiff is at liberty to commence a derivative action, in which case this application would be doomed to failure.

The rule and the exceptions thereto are the pet topics of candidates who opt for company law as a subject in their law examination as the questions set therein would invariably include these topics as an indispensable part and parcel of the paper. Be that is it may, it is necessary, useful and instructive to familarise ourselves with the rule albeit elementary, as stated by Jenkins, LJ in *Edwards & Another v. Halliwell & Others* [1950] 2 All ER 1064, 1066 and applied, *inter alia* , by the Federal Court in *Paidiah Genganaidu v. The Lower Perak Syndicate Sdn Bhd & Ors* [1973] 1 MLRA 512; [1974] 1 MLJ 220 H-I right as follows:

The rule in *Foss v. Harbottle* , as I understand it, comes to no more than this. First, the proper plaintiff in an action in respect of a wrong alleged to be done to a company or association of persons is *prima facie* the company or the association of persons itself. Secondly, where the alleged wrong is a transaction which might be made binding on the company or association and on all its members by a simple majority of the members, no individual member of the company is allowed to maintain an action in respect of that matter for the simple reason that, if a mere majority of the members of the company or association is in favour of what has been done, then *cadit quaestio* .

As alluded to above, there are however situations which constitute exceptions to the rule, thereby enabling a plaintiff to initiate a derivative action. These exceptions may be categorised as follows:

(a)*ultra vires* acts;

(b)fraud on the minority;

(c)special majority;

(d)personal rights; and

(e)where justice of the case requires.

(See *Tan Guan Eng & Anor v. Ng Kweng Hee & Ors*[1991] 3 MLRH 1; [1992] 1 MLJ 487; [1991] 4 CLJ (Rep) 74 and the cases referred to therein by Edgar Joseph Jr. J (later FCJ)).

It is common ground that the plaintiff herein is proceeding with this action as a derivative action which is an action in a court of equity. The practice in our courts in this respect has been to follow that applied in *Prudential Assurance Co Ltd v. Newman Industries Ltd & Ors (No 2)* [1982] 1 All ER 354. In that respect, Chong Siew Fai, J (later CJ Sabah & Sarawak) in *Huang Ee Hoe & Ors v. Tiong Thai King &*

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Ors [1990] 3 MLRH 409; [1991] 2 MLJ 51; [1991] 2 CLJ (Rep) 745 in a well-considered judgment held, *inter alia* , as follows:

(2) In a derivative action, before such an action is allowed to proceed, the defendants are entitled to ask for determination as a preliminary issue whether the plaintiffs have established a *prima facie* case (i) that the action falls within the proper boundaries of the exception to the rule in *Foss v. Harbottle* , and (ii) that the company is entitled to the relief claimed.

(3) What is required to be established is a *prima facie* case so as to avoid unjustifiably subjecting the company to a full trial in order to enable the court to determine whether the plaintiffs were entitled in law to make the company undergo the entire action. Trial of the preliminary issues is to this end.

In order to determine whether the plaintiff herein is allowed to proceed with this derivative action, it is necessary for me to state that in initiating this derivative action, he is relying on his 40% shareholding in the third defendant and his appointment as a director and executive deputy chairman in the third defendant. In addition, he also alleges numerous wrongful acts committed by the first defendant as a majority shareholder amounting to a fraud or lack of probity and beyond the powers of the company ie, the third defendant. Several other allegedly wrongful acts were enumerated eg, the changing of the company directors and secretary twice without complying with proper procedure and done behind the plaintiff's back and obtaining the company secretary's letter of resignation by force or duress. In addition to the dispute on the plaintiff's shareholding in the third defendant, the plaintiff also referred to the first and second defendants' alleged breach of shareholding agreement dated 20 October 1999 entered into between the plaintiff and the first defendant. However for the purposes of this judgment I do not consider it necessary to elaborate thereon, but merely to state that these allegations of fact are adequate to bring this action within the boundary of the exceptions *viz ultra vires* acts and fraud on the minority, as these are exceptions (a) and (b) to the rule as categorised above.

The initiation or commencement of a derivative action by the plaintiff herein as a minority shareholder is not unusual so long as the plaintiff is able to satisfy the court that he comes within any of the aforesaid exceptions to the rule.

In particular reference to the exception based on "fraud on the minority", the Court of Appeal through the well-considered judgment of Gopal Sri Ram JCA in *Abdul Rahim Aki v. Krubong Industrial Park (Melaka) Sdn Bhd*[1995] 1 MLRH 743; [1995] 4 CLJ 551; [1995] 2 AMR 1161 in explaining the doctrine embodied in this term of art held that the plaintiff relying on this doctrine must show that:

(a)those wielding majority control has shown a lack of probity in managing the company (ie, the third defendant herein); or

(b)those wielding majority control abused the powers vested in them in the sense that they used or omitted to use their powers for an oblique or collateral motive or

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purpose and not for the purpose for which the power was entrusted to them either by the memorandum and articles of association, by statute or the general law. (See also *Alor Janggus Soon Seng Trading Sdn Bhd & Ors v. Sey Hoe Sdn Bhd & Ors*[1993] 5 MLRH 9; [1995] 1 MLJ 241; [1995] 1 CLJ 461; [1995] 1 AMR 549)

It is my specific finding that the plaintiff has satisfied the aforesaid requirements for the purposes of establishing his *locus standi* to initiate this derivative action.

Order 18 r. 19(1)(b)

In relying on O. 18 r. 19(1)(b), the first and second defendants are in effect arguing that the plaintiff's action is scandalous, frivolous or vexatious.

In *Boey Oi Leng v. Trans Resources Corporation Sdn Bhd*[2001] 4 MLRH 274; [2002] 1 CLJ 405; [2001] 4 AMR 4807 , in the context of O. 18 r. 19(1)(b) I have the occasion to decide on the meaning of the word "scandalous" as meaning wholly unnecessary or irrelevant.

The plaintiff herein has established that he is bringing this derivative action as a director and a 40% shareholder of the third defendant and so I am unable to hold that the plaintiff's action is scandalous in the sense of being wholly unnecessary or irrelevant.

Similarly, it cannot be said that the plaintiff's action is frivolous or vexatious in the sense of being obviously unsustainable eg, where the doctrine of *res judicata* applies, or where the wrong party is being sued, or the action is without merit or not justified: See *Boey Oi Leng, supra* . Indeed, without deciding on the strength of the plaintiff's action at this juncture, I am of the view that the plaintiff's action is neither scandalous, nor frivolous or vexatious.

Order 18 r. 19(1)(c)

I am also unable to uphold the submissions of the first and second defendants that the plaintiff's action would prejudice, embarrass or delay the fair trial of the action, as provided for under O. 18 r. 19(1)(c). The allegations of the plaintiff's claim had been clearly spelt out in properly pleaded paragraphs and the plaintiff has filed his application *vide* encl. (42) under O. 34 for pre-trial case management for the purposes of obtaining directions from the court including the full hearing of the action herein. Therefore the plaintiff's claim could not be said to prejudice, embarrass or delay the fair trial of this action.

Order 18 r. 19(1)(d)

There is also nothing in the submission of the first and second defendants to lead me to the conclusion that the plaintiff's action is an abuse of the process of the court under O. 18 r. 19(1)(d).

An abuse of the process of the court can arise under O. 18 r. 19(1)(d) when eg, the plaintiff's action is intended to embarrass the first and second defendants, which does not appear to be the case herein as the plaintiff has a legitimate right to

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initiate and pursue in the derivative action.

Striking Out Only In Plain And Obvious Cases

It has been stated ever so often by our courts that it is only in absolutely plain and obvious cases that a plaintiff's claim or action or a party's pleadings would be struck out under any of the limbs of O. 18 r. 19(1): See eg, *Roslan Abdullah v. New Zealand Insurance Co Ltd* [1981] 1 MLRA 445 ; [1981] 2 MLJ 324 FC.

The weakness or demerits of the plaintiff's action or a party's pleadings cannot *ipso facto* be a ground for striking out but it has to be proved, established or demonstrated that the specific requirements and terms contained in O. 18 r. 19(1)(b), (c) or (d) has been satisfied.

In the instant case, there are serious conflicts or controversies in the multifarious affidavits filed by the parties herein. I am neither bound nor prepared to resolve these conflicts or controversies at this premature affidavit stage, but would only resolve them by way of mature consideration of *viva voce* evidence adduced at a full hearing of the action herein: *Kantan Jaya Marine Services (Pg) Sdn Bhd v. RHB Bank Bhd* [2001] 3 CLJ 738 ; *Hii Heng Tuong Alphonsus v. Lok Min Wah & Ors* [1995] 2 MLRH 830; [1995] 4 MLJ 259; [1995] 4 CLJ 350 HC.

On the foregoing grounds, I hold that the application is without merits and is hereby dismissed.

Costs

As the plaintiff's procedural objection has been overruled and the first and second defendants' application dismissed, I am of the view that the question of costs as a matter of discretion should be resolved by an order which is fair and reasonable in the circumstances of this case. I hold that it is fair and reasonable that costs be in the cause, whereby I hereby order.

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TAB C

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GOVERNMENT OF MALAYSIA

v.

LIM KIT SIANG & ANOTHER CASE

SUPREME COURT, KUALA LUMPUR
SALLEH ABAS LP
ABDUL HAMID OMAR CJ (MALAYA)
GEORGE SEAH SCJ
HASHIM YEOP SANI SCJ
EUSOFFE ABDOOLCADER SCJ
[CIVIL APPEAL NO. 434 & NO. 456 OF 1987]
15 MARCH 1988

CIVIL PROCEDURE: *Injunction - Respondent is Leader of Opposition - Proposed privatisation contract for construction of North-South Highway - Contract to be signed between UEM and Government of Malaysia pursuant to Letter of Intent - Declaration sought letter of Intent issued by Government to UEM was invalid - Permanent injunction sought to restrain UEM from signing contract with Government - Whether injunction sought against officer of Government - Section 29 Government Proceedings Act 1956.*

CIVIL PROCEDURE: *Locus Standi - Whether respondent has locus standi to bring and maintain suit against Government - Cause of action - Whether can maintain suit against UEM.*

CIVIL PROCEDURE: *Jurisdition - Supreme Court - Oral Judgment of Supreme Court - Interlocutory injunction granted by Supreme Court - Whether provisional or final Judgment - Power of Supreme Court - Whether Order of Supreme Court can be discharged or varied by another panel of same Court.*

This was an appeal against the decision of V.C. George J ([1987] CLJ (Rep) 722) who dismissed the applications of United Engineers (M) Bhd. (UEM) and the Government of Malaysia to have the interim injunction granted on 25 August 1987 by the Supreme Court ([1987] CLJ (Rep) 170) set aside and the suits struck out on the ground that they disclosed no reasonable cause of action and also for lack of *locus standi* in addition to being frivolous, vexatious and an abuse of the process of Court. Hence, this appeal to the Supreme Court for the second time.

Held:

[1] On going through the respondent's statement of claim the Court found nothing in it which shows the evidence of a factual situation. The respondent has no legal relationship with UEM which would indicate the existence of any legal right or duty in the relationship between them. Therefore the respondent's suit against UEM is unmaintainable and its application to strike it out should therefore be granted and consequently its appeal should be allowed.

[2] Since the suit against UEM is not maintainable there was no question of the respondent's entitlement to a remedy of declaration and injunction permanent or otherwise. The interim injunction which was granted against UEM has no legal basis. Also the issue of the interim injunction against UEM is absolutely contrary to the expressed words of **s. 29 of the Government Proceedings Act 1956** as it has in effect indirectly restrained the Government.

[3] In this case, not only has the respondent no cause of action against UEM but the Court also has no power to issue the injunction interim or otherwise. The respondent's suit against UEM is therefore unmaintainable as it is also vexatious, frivolous and constitutes an abuse

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of the judicial process.

[4] There is nothing in the Constitution or in the Government Contracts Act which imposes a legal duty on the Government to consult and accept the views of any taxpayer or group of taxpayers or to hear objections. However, there may be moral and political obligations on the part of the Government to be mindful of taxpayers' objections but this is not a basis for the Court to find a legal duty giving any taxpayer *locus standi* to maintain this suit as such moral obligations should be addressed at other forums.

[5] The wording and tenor of the short oral Judgment of the Supreme Court delivered on 25 August 1987 clearly show that the Court did not consider its ruling to be a definitive or conclusive one. Thus the decision could only be no more than a provisional or *prima facie* one as this is confirmed by a proviso in the oral Judgment itself which states that UEM and the Government were "at liberty to apply". Hence the Court cannot see any thing in the oral Judgment which inhibits the Court from considering the problem of *locus standi* again.

[6] In the circumstances, the appeals were allowed and it was ordered that the suits against the Government and UEM be dismissed and the interim injunction discharged.

[Appeal allowed. Suits against Government and UEM dismissed. Interim injunction discharged. Deposit paid by UEM refunded. Each party to bear its own costs.]

Cases referred to:

Letang v. Cooper [1965] 1 QB 232
Regina v. Secretary of State for the Home Department & Anor., ex parte Herbage [1987] 1 QB 872
Boyce v. Paddington Borough Council [1903] 1 Ch 109
Gouriet v. Union of Post Office Workers & Ors. [1977] 3 All ER 70
Regina v. Commissioner of Police of the Metropolis, ex parte Blackburn [1968] 2 WLR 983
Blackburn v. AG [1971] 1 WLR 1037
AG (on the relation of McWhirter) v. Independent Broadcasting Authority [1973] All ER 689 [1973] QB 629
Regina v. GLC ex parte Blackburn & Anor. [1976] 1 WLR 558
Inland Revenue Commissioners v. National Federation of Self-Employed and Small Businesses Ltd. [1982] AC 617
Regina v. HM Treasury ex parte Smedley [1985] 1 All ER 589
Regina v. Metropolitan Police Commissioner ex parte Blackburn [1980] TLR 13
Regina v. Greater London Council ex parte Blackburn & Anor. [1976] 1 WLR 558
Lim Cho Hock v. Government of the State of Perak, Menteri Besar, State of Perak and President, Municipality of Ipoh [1980] 2 MLJ 148
Tan Sri Haji Othman Saat v. Mohamed bin Ismail [1982] 2 MLJ 177
Dyson v. AG [1911] 1 KB 410
Baker v. Carr 369 US 180 [1961]
Gouriet v. Union of Post Office Workers Ors. [1978] AC 435
Williams v. Fawcett [1986] 1 QB 604
Young v. Bristol Aeroplane Co. Ltd. [1944] KB 718; [1946] AC 163
Morelle Ltd. v. Wakeling [1955] 2 QB 379
Attorney-General for Ontario v. Canada Temperance Federation [1946] AC 193
Malaysia National Insurance Sdn. Bhd. v. Abdul Aziz bin Mohamed Daud [1979] 2 MLJ 29
Othman Saat v. Mohd. bin Ismail [1982] 1 MLJ 177
O'Reilly v. Mackman [1983] 2 AC 237
Great Western Railway Co. v. Owners of S.S. Mostyn [1927] AC 73
Practice Statement (Judicial Precedent) [1966] 1 WLR 1234
The Bengal Immunity Company Limited v. The State of Bihar & Ors. [1955] 2 SCR 603

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PP v. Ooi Khai Chin & Anor. [1979] 1 MLJ 112
PP v. Tai Chai Geok [1978] 1 MLJ 166
IRC v. Federation of Self Employed [1982] AC 617; [1981] 2 All ER 93
Australian Conservation Foundation v. Commonwealth of Australia [1979-80] 28 ALR 257
Amalgamated Society of Railway Servants v. Osborne [1910] AC 87
Morris v. Burdett [1813] 105 ER 361
Datuk Ong Kee Hui v. Sinyium anak Mutit [1983] 1 MLJ 37
Dato Menteri Othman bin Baginda & Anor. v. Dato Ombi Syed Alwi bin Syed Idrus [1981] 1 MLJ 29
Chief Constable of North Wales Police v. Evans [1982] 3 All ER 141
Duke v. Reliance Systems Ltd. [1987] 2 WLR 1125
WEA Records Ltd v. Visions Channel 4 Ltd. & Ors. [1983] 2 All ER 589
Guaranty Trust Co. of New York v. Hannay [1915] 2 KB 536
Gillick v. West Norfolk and Wisbech Area Health Authority & Anor. [1986] 1 AC 112
Regina v. Horsham Justices, ex parte Farquharson & Anor. [1982] 2 WLR 430
Regina v. Felixstowe Justices, ex parte Leigh & Anor. [1987] 1 QB 582
Fitzgerald v. Muldoon [1976] 2 NZLR 615
Regina v. Hereford Corporation, ex parte Harrower [1970] 1 WLR 1424
Waddell v. Schreyer [1981] 126 DLR (3d) 431
Finlay v. Minister of Finance of Canada [1984] 1 FC 516
Finlay v. Canada [1986] 2 SCR 607
Thorson v. Attorney-General for Canada [1975] 1 SCR 138
Nova Scotia Board of Censors v. McNeil [1976] 2 SCR 265
Minister of Justice for Canada v. Borowski [1981] 2 SCR 575
Lye Thai Sang & Anor. v. Faber Merlin (M) Sdn. Bhd. & Ors. [1985] CLJ (Rep) 196
Foo Loke Ying & Anor. v. Television Broadcasts Ltd. & Ors. [1985] CLJ (Rep) 122
Viro v. Regina [1978] 141 CLR 88
Jones v. The Commonwealth [1987] 61 ALJR 348
Spycatcher Case (Attorney-General v. Guardian Newspapers Ltd. & Ors. [1987] 1 WLR 1248
Loudon v. Ryder (No. 2) [1953] Ch 423
R.J. Reuter Co. Ltd. v. Mulhens [1954] Ch 1950
Kingdom of Spain v. Christie, Manson & Woods Ltd. [1986] 1 WLR 1120
Rediffusion (Hong Kong) Ltd. v. Attorney-General of Hong Kong [1970] AC 1136
Campbell College, Belfast (Governors) v. Commissioner of Valuation for Northern Ireland [1964] 1 WLR 912
Trustees of Clyde Navigation v. Laird [1883] 8 AC 658
Assheton Smith v. Owen [1906] 1 Ch 179
Pole-Carew v. Craddock [1920] 3 KB 109
Attorney-General v. The Edison Telephone Company of London [1880] 6 QBD 244
S & F International Limited v. Trans-Con Engineering Sdn. Bhd. [1985] 1 MLJ 62
Additional District Magistrate, Jabalpur v. Shivakant Shukla [1976] AIR SC 1207

Legislation referred to:
Civil Law Act 1956, s. 3
Courts of Judicature Act 1964, s. 44(1), (3).
Crown Proceedings Act 1947 [UK], ss. 21, (2), 38(2)
Emergency (Essential Powers) Ordinance No. 22, 1970, s. 2
Federal Constitution, arts. 68(1), 145(2)
Government Contracts Act 1949, s. 2.
Government Proceedings Act 1956, ss. 2(2), 7, 29, (1)(a)
Rules of the High Court 1980, O. 15 r. 16, O. 18 r. 19
Specific Relief Act 1950, ss. 6, 41, 51, 54(d), (k)
Supreme Court Act 1981 [UK], s. 31, (3)

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Rules of the Supreme Court 1883 [UK], O. 25 r. 5, O. 53 rr. 3(7), (5)

Other sources referred to:
Judicial Review Law and Procedure, R.J.F. Gordon, p. 51, para. 4-7
Annual Practice, 1985, p. 767, para. 53/1-14/47

For the appellant (SCCA 434/87) - Abu Talib Othman, Attorney-General, Malaysia (T. Selventhiranathan, SFC with him)
For the appellant (SCCA 456/87) - R.R. Chelliah (Zaid Ibrahim & C.P. Mahendran with him); M/s. Zaid Ibrahim & Co.
For the respondent (in both Appeals) - On 12 January 1988 - T. Thomas (K.C. Cheah, N. Shanmugam & C.G. Oh with him); On 14 & 15 January 1988 - Karpal Singh (K.C. Cheah, N. Shanmugam & C.G. Oh with him); M/s. Karpal Singh & Co.

JUDGMENT

Salleh Abas LP:

The respondent who is the Leader of Opposition is seeking the aid of the Court to Interfere in the affairs of a proposed privatisation contract for the construction of North and South Highway due to be signed between the United Engineers (M) Bhd. (UEM), (appellant in appeal No. 456/1987) and the Government of Malaysia, (appellant in appeal No. 434/1987) by asking for a declaration that the letter of intent issued by the Government to UEM in respect of the North and South Highway (NSH) contract is invalid and based on the premise he also prays for a permanent injunction to restrain UEM from signing it with the Government .

On 18 August 1987 he filed a suit to that effect at Penang High Court and on the same day applied by way of an *ex parte* Summons-in-Chambers for an interim injunction against UEM to restrain it from signing the NSH contract. The application was heard by Edgar Joseph Jr. J. He refused the application but on appeal to the Supreme Court (Tan Sri Lee Hun Hoe CJ Borneo, Wan Suleiman and Wan Hamzah) the Court ordered the interim injunction to be issued "with liberty to apply" and at the same time directed an early trial of the suits.

Soon after this UEM and the Government applied to the High Court to have the interim injunction set aside and the suits struck out on the ground that they disclosed no reasonable cause of action and also for lack of *locus standi*, in addition to being frivolous, vexatious and an abuse of Court's process. These two applications were heard together by V.C. George J and in a long written judgment the learned Judge dismissed them. Thus the suits and the interim injunction stayed on and so both UEM and the Government appeal to the Supreme Court and hence the case once again came to this Court for the second time.

Confusing as these appeals may appear to be, my decision should centre only on the following questions:

(a) whether the respondent/plaintiff has a cause of action to maintain a suit against the United Engineers;

(b) whether his application for an injunctive remedy is not contrary to s. 29 of the Government Proceedings Act;

(c) whether he has *locus standi*, i.e., title to bring and maintain the suit against the Government;

(d) whether the oral judgment of the Supreme Court delivered on 25 August 1987 was a final one; and

(e) even if he has *locus standi*, whether his complaint is one in respect of which the Court's

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discretion to grant or refuse the remedy of declaration should be exercised in is favour.

(a) ***Cause of Action***

The first issue is whether or not the respondent's statement of claim discloses any cause of action at all in order to enable him to maintain the suit against UEM. If it does not, the application by UEM to strike out the suit and consequently its appeal should both be allowed.

What then is the meaning of "a cause of action"? "A cause of action" is a statement of facts alleging that a plaintiff's right, either at law or by statute, has, in some way or another, been adversely affected or prejudiced by the act of a defendant in an action. Lord Diplock in *Letang v. Cooper* [1965] 1 QB 232 at 242 defined "a cause of action" to mean "a factual situation, the existence of which entitles one person to obtain from the Court a remedy against another person". In my view the factual situation spoken of by Lord Diplock must consist of a statement alleging that first the responden /plaintiff has a right either at law or by statute and that secondly such right has been affected or prejudicated by the appellant/defendant's act.

Going through the respondent's statement of claim I found nothing in its which shows the existence of such factual situation. The respondent has no legal relationship with UEM, which would indicate the existence of any legal right or duty in the relation between them. He is a complete stranger to the Company. It is not shown that the respondent is a shareholder or has any interest, directly or indirectly, in the running of the affairs of UEM nor has UEM done any wrong to the respondent or deprived or threatened to deprive him of his right and privilege. The entitling factual situation simply does not exist. Therefore, the respondent's suit against UEM is unmaintainable and its application to strike it out should therefore be granted and consequently its appeal be allowed.

(b) ***Application for injunctive remedy***

Since the suit against UEM is not maintainable there is therefore no question of the respondents's entitlement to a remedy of declaration and injunction, permanent or otherwise. The interim injunction, which was granted against UEM has no legal basis.

Apart from this, the issue of the interim injunction against UEM is absolutely contrary to the expressed words of s. 29 of the Government Proceedings Ordinance 1956, as it has in effect indirectly restrained the Government. Section 29 is as follows:

> 29(1)In any civil proceeding by or against the Government the Court shall .... have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require:
>
> Provided that:
>
> (a) where in any proceedings against the Government ... the Court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and
>
> (b) ...
>
> (2) The Court shall not in **any** civil proceedings grant any injunction ... if the effect of granting the injunction ... would be to give any relief against the Government which could not have been obtained in **proceedings against the Government**".
> (Emphasis is mine)

This means that no injunction could be directly or indirectly issued against the Government or its officers. Similarly, the Court has no jurisdiction to grant an injunction against a private litigant if the injunction would have the effect of restraining the Government or its officers

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from performing their functions. This has been the interpretation which has been placed by the Courts in England as well as in this Country.

However, this interpretation has recently been questioned by Hodgson J in *Regina v. Secretary of State for the Home Department & Anor., ex parte Herbage* [1987] 1 QB 872. I do not consider this case as having much bearing upon the powers of the Court in Malaysia relating to the granting of injunction against the Government or its servants. The effects of Hodgson J's decision is that although s. 21 of the UK Crown Proceedings Act 1947 does not apply to proceedings on the Crown side of the QB Division, and therefore the Crown's immunity from injunction is not claimable under s. 21, nevertheless O. 53, which is backed by s. 31 of the Supreme Court Act 1981 gives jurisdiction to the Court to grant injunction, even interim injunction against a servant of the Crown, even though proceedings may have been commenced on the Crown side of the QB Division. But in Malaysia we have no O. 53 and s. 31. Is it justified for us to import this decision which is only a High Court decision to depart from the generally accepted interpretation of s. 29 of the Government Proceedings Act? With respect I am unable to agree.

Looking at the statement of claim of the respondent against both the Government and UEM, I cannot help thinking that the suit against UEM is commenced purely as a ground or a stepping stone for the purpose of applying for an injunction; more particularly an *ex parte* interim injunction in order to stop the NSH contract. Knowing that no injunction could be obtained directly or indirectly against the Government or its officers because of the proviso (a) to subsection (1) and subsection (2), the scope of the suit is deliberately widened to include UEM as another defendant. In my view the interim injunction should have been refused.

Refusal to grant the injunction in this case is also consistent with paras. (d) and (k) of s. 54 of the Specific Relief Act in that no injunction can be granted "to interfere with the public duties of any department of any Government" nor can it be granted "where the applicant has no personal interest in the matter". Personal interest here must surely mean legal interest and not merely political interest.

In this case since not only has the respondent no cause of action against UEM but the Court also has no power to issue the injunction, interim or otherwise, the respondent's suit against UEM is therefore unmaintainable as it is also vexatious, frivolous and constitutes an abuse of the judicial process.

(c) *Locus standi*

Every legal system has a built-in mechanism to protect its judicial process from abuse by busy-bodies, cranks and other mischief-makers by insisting that a plaintiff should have special interest in the proceedings which he institutes. This special interest is a nexus between him and the party against who he brings his complaints to Court and is known as *locus standi*.

In a public law litigation the rule is that the Attorney-General is the guardian of public interest. It is he who will enforce the performance of public duty and the compliance of public law. Thus when he sues he is not required to show *locus standi*. On the other hand any other person, however public spirited he may be, will not be able to commence such litigation, unless he has a *locus standi*, or in the absence of it, he has obtained the aid or consent of the Attorney-General. If such consent is obtained the suit is called a relator action in which the Attorney-General becomes the plaintiff whilst the private citizen his relator. I will deal with this aspect in the later part of this judgment. In the instant appeal since this is not a

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relator action the respondent must show that he has the necessary *locus standi* to commence and maintain the suit.

What is the law on *locus standi*?

A clear statement of it was stated by Buckley J in *Boyce v. Paddington Borough Council* [1903] 1 Ch 109 as follows:

> A plaintiff can sue without joining the Attorney-General in two cases: first, where the interference with the public right is such as that some private right of his is at the same time interfered with (e.g., where an obstruction is so placed in a highway that the owner of premises abutting upon the highway is specially affected by reason that the obstruction interferes with his private right to access from and to his premises to and from the highway); and, secondly, where no private right is interfered with, but the plaintiff, in respect of his public right, suffers special damages peculiar to himself from the interference with the public right.

The above passage was accepted by the House of Lords in *Gouriet v. Union of Post Office Workers & Ors.* [1977] 3 All ER 70 (see the speeches of Lord Edmund Davies and Lord Fraser). That was the law of *locus standi* declared by the highest Court in England in 1977. However, six months later the law was changed as a result of a new procedure of judicial review introduced by O. 53 of the UK Supreme Court Rules.

Locus standi is inseparable from, and indeed intertwined with, relator actions because if a private citizen, wishing to complain that a public authority has not legally performed its function or has failed to perform it altogether, has no *locus standi*, he must obtain the consent of the Attorney-General in order to commence a relator action. Without *locus standi* he cannot proceed on his own. In cases where the Attorney-General has given his consent, there is, of course, no problem, because no *locus standi* needs to be shown since the Attorney-General is constitutionally regarded as the guardian of public right. The difficulty arises where the necessary consent is not obtained before a private citizen launches a suit. In a few cases involving matters of general public interest, which were started by a private citizen, the Attorney-General did intervene in the proceedings either by subsequently giving his consent or even by his personal appearance, thereby dispensing with the requirement of *locus standi* of the applicant. Yet there are cases in which he made no such intervention at all. In such cases the applicant must show *locus standi*.

The study of the development of the law on *locus standi* in England is very interesting. During the tenureship of Lord Denning MR, it appears that the Court of Appeal by a spate of judicial activism widened the law on *locus standi* by dispensing with the requirements of private right or private injury caused to the complaining citizen. (See *Regina v. Commissioner of Police of the Metropolis, ex parte Blackburn* [1968] 2 WLR 983; *Blackburn v. AG* [1971] 1 WLR 1037; *AG (on the relation of McWhirter v. Independent Broadcasting Authority* [1973]) All ER 689 at 698 and [1973] QB 629; and *Regina v. GLC ex parte Blackburn & Anor.* [1976] 1 WLR 558 at 559).

This was the view then prevailing in English Law in the late sixties and seventies until it was rejected by the House of Lords in 1977 in *Gouriet's* case. This case restored the law on *locus standi* to what was formerly stated by Buckley J in *Boyce's* case. However, the restoration was shortlived because six months later a new procedure by way of judicial review which combined applications for the prerogative order of *mandamus, certiorari* and prohibition with application for declaratory and injunctive remedies, was introduced by O. 53 of the United Kingdom Supreme Court Rules.

Under this Order a private citizen making an application for judicial review is required to

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show that he has "a sufficient interest in the matter to which his application relates". Thus English Courts are required to interpret what "sufficient interest" means. In most of the cases decided after the introduction of this Order "sufficient interest" has been given a wider meaning than, and a different approach from, that stated in *Boyce's* case. The result is the return towards the liberal stand propounded by Lord Denning in the judgments of the Court of Appeal prior to *Gouriet's* case. This liberalism can be seen in the judgment of the House of Lords in *Inland Revenue Commissioners v. National Federation of Self-Employed and Small Businesses Ltd.* [1982] AC 617, and the Court of Appeal's decisions in *Regina v. HM Treasury ex parte Smedley* [1985] 1 All ER 589; *Regina v. Metropolitan Police Commissioner, ex parte Blackburn* [1980] TLR 13, and *Regina v. Commissioner of Police of the Metropolis, ex parte Blackburn* [1968] 2 WLR 893.

Necessity seems to be the basis for liberalising the law on *locus standi*. This can be seen clearly from the dicta of Lord Denning in a number of cases before and after *Gouriet's* case was decided. His view, which was later supported by Lord Diplock, is that if a public spirited person, not having any special or peculiar interest in the performance of public duty by a public body, is not given right of hearing to bring the matter before the Court, no one will ever bring it to Court. In other words, it is a necessity, which arises, not because of his private interest being adversely affected, but because of the nature of the complaint and the need for the Court to intervene and to grant remedies. This is epitomised in Lord Denning's question: "Are Courts to stand idly by?"

The seed of this liberalism (more accurately abolition) of *locus standi* first began with a *dictum*, which later germinated into a *ratio decidendi*. The first *dictum* was sown in *Regina v. Commissioner of Police of the Metropolis, ex parte Blackburn* [1968] 2 WLR 893. In this case Lord Denning threw the question open whether a private citizen who applied for a *mandamus* to compel the Commissioner of Police to enforce gaming law had or had no *locus standi*. But he did, however, recognise as shown in the following passage of his judgment, that such citizen had no *locus standi*. This is what he said:

> It is I think an open question whether Mr. Blackburn has a sufficient interest to be protected. No doubt any person who was **adversely affected** by the action of the Commissioner in making a mistaken policy decision would have such an interest. The difficulty is to see how Mr. Blackburn himself has been affected. But without deciding that question, I turn to see whether ... (p. 903)
>
> (Emphasis is mine)

Salmon LJ agreed with the above quoted passage, whilst Edmund Davies LJ insisted upon the requirement of special or peculiar interest. In his view a person without such interest had no *locus standi* to enforce the due discharge of the public duty under consideration.

Three years later, in 1971, (*Blackburn v. Attorney-General* [1971] 1 WLR 1037) the same Mr. Blackburn came again to Court challenging the legality of the British Government's proposed entry into the European Common Market, since it was argued, the signing of the European Common Market Treaty would compromise the British Parliamentary sovereignty. The Court rejected this argument because it held that it could not impugn the treaty-making power of the Crown. However, during the course of his judgment Lord Denning MR expressed an *obiter dictum* saying that he would not rule Mr. Blackburn out on the ground that he had no standing.

The next case in which Lord Denning expressed an *obiter* is *Attorney-General (on the*

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relation of McWhirter) v. Independent Broadcasting Authority [1973] 1 All ER 689 at 698 [1973] QB 629 at 649. In this case he said:

> In the light of all this I am of opinion that, in the last resort, if the Attorney-General refuses leave in a proper case, or improperly of unreasonably delays in giving leave, or his machinery works too slowly, then a member of the public, who has a sufficient interest, can himself apply to the Court itself. He can apply for a declaration and, in a proper case, for an injunction, joining the Attorney-General if need be, as defendant. In these days when government departments and public authorities have such great powers and influence, this is a most important safeguard for the ordinary citizens of this country; so that they can see that those great powers and influence are exercised in accordance with law. I would not restrict the circumstances in which an individual may be held to have a sufficient interest. Take the recent cases when Raymond Blackburn applied to the Court on the ground that the Commissioner of Police was not doing his duty in regard to gaming or pornography. Blackburn had a sufficient interest, even though it was shared with thousands of others. I doubt whether the Attorney-General would have given him leave to use his name: see *Regina. v. Metropolitan Police Commissioner, ex parte Blackburn* [1968] 1 All ER at 770, 771, [1968] 2 QB 137, 138, 139.

This passage was held by the House of Lords in *Gouriet's* case to be only an *obiter* (see *Gouriet's* case [1977] 3 All ER p. 76 at 85, 95, 100, 106, 117).

In another *Blackburn* case *Regina v. Greater London Council ex parte Blackburn & Anor.* [1976] 1 WLR 558 the same private citizen and another applied to the Court for a prerogative order of prohibition directing the respondent, Greater London Council, not to allow the showing of obscene films as they had bad influences on children. The Court of Appeal held that the applicants as citizens, ratepayer and parents residing within the Council's jurisdiction had sufficient *locus standi* to make the application. Thus what was formerly an *obiter,* then became a *ratio decidedi*. In his judgment Lord Denning said:

> It was suggested that Blackburn has no sufficient interest to bring these proceedings against the GLC. It is a point which was taken against him by the Commissioner of Police .... On this point, I would ask: Who then can bring proceedings when a public authority is guilty of a misuse of power? Blackburn is a citizen of London. His wife is a ratepayer. He has children who may be harmed by the exhibition of pornographic films. If he has no sufficient interest, no other citizen has. I think he comes within the principle which I stated in *McWhirter's* case [1973] QB 629, 649, which I would recast today so as to read:
>
> > I regard it as a matter of high constitutional principle that if there is good ground for supposing that a government department or a public authority is transgressing the law, or is about to transgress it, in a way which offends or injures thousands of Her Majesty's subjects, then any one of those offended or injured can draw it to the attention of the Courts of law and seek to have the law enforced, and the Courts in their discretion can grant whatever remedy is appropriate". (p. 558-559).

Those were the cases decided by the Court of Appeal before the House of Lords' decision in *Gouriet's* case. In those cases the Court of Appeal simply passed over the requirement of *locus standi* and went straight to the crux of the complaints of the applicants. Before the introduction of the new procedure of judicial review under O. 53 this approach was not accepted by the House of Lords and the law, according to the House, was the same as formerly laid down by Buckley J in *Boyce's* case.

However, with the introduction of the new procedure, not only *locus standi* ceased to be a threshold requirement, its meaning also becomes liberated by the use of the words "sufficient interest" and consequently relator action ceases to have much meaning. The result is that

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both the approach to the problem of *locus standi* and its meaning advocated by Lord Denning were finally accepted by legislation.

Order 53 was based largely on the recommendation of the Law Commission made in their Report on Remedies in Administrative Law (Law Com. No. 63 Commd. 6407 [1976]). It came into force in January 1978. Subsequently the Order was given a statutory backing by s. 31 of the Supreme Court Act 1981.

For the purpose of explaining this change it is necessary to refer to three cases of judicial review under O. 53 in which *locus standi* becomes liberated. First *Regina v. Metropolitan Police Commissioner ex parte Blackburn* (Times Law Reports 7 March 1980), secondly *Regina v. Economic Secretary to the Treasury ex parte Smedley* (Times Law Reports 8 December 1984), Queen's Bench Division, and [1985] 1 All ER 589 (Court of Appeal) and thirdly *Regina v. Inland Revenue Commissioners ex parte Federation of Self-Employed and Small Businesses Ltd.* [1982] AC 617.

In the first case - this is the fourth *Blackburn's* case - the applicant made an application requiring the Metropolitan Police Commissioner to take action against a widespread exhibition of pornographic materials. Even the Temple tube station, which is the station used by legal fraternity was not spared from such daring exhibition. The application was refused by the Divisional Court and on appeal to the Court of Appeal the application was similarly dismissed and leave to appeal to the House of Lords was also refused. The reason for dismissing the appeal was not based on *Locus standi,* but on merits in that it was held that it is not for Blackburn nor for the Court to tell the Commissioner how he was to perform his duties. All the Judges of the Court of Appeal agreed that Blackburn, the applicant, had "a sufficient interest in the matter to which his application related" within the meaning of O. 53, r. 3(5). This case ended at the level of the Court of Appeal only.

The House of Lords had its first opportunity to decide the issue of *locus standi* as a requirement for judicial review under O. 53 in the *Federation of Self-Employed's* case.

This was a case in which the Federation contested the legality of Inland Revenue's decision to give tax amnesty to casual workers of Fleet Street on the ground that it was difficult to collect the tax from them. A preliminary objection was taken on behalf on the Inland Revenue to the effect that the Federation had no *locus standi* or a sufficient interest to apply for a judicial review relating to the legality of tax amnesty. The Divisional Court upheld the objection but the Court of Appeal overruled that decision and held that a body of taxpayers represented by the Federation could reasonably assert that they had a genuine grievance in the alleged failure of the Inland Revenue to do its duty in the granting of an unlawful indulgence of tax amnesty to the casual workers. The House of Lords held that the question of sufficiency of interest was no longer a threshold requirement under O. 53. The House further held that the question must be determined on the basis of the available evidence before the Court. Although the House agreed with the Court of Appeal that the Federation had the necessary *locus standi* it refused the judicial review on the ground that the giving of tax amnesty is not an illegal act by the Inland Revenue since it is part of its duty of good management and collection of taxes. This case therefore clearly shows that the Court's approach to the problem of *locus standi* under O. 53 has radically changed. Instead of being a threshold requirement, it now becomes one of the matters to be taken into consideration for the exercise of judicial review.

In *Smedley's* case, which went up only as far as the Court of Appeal, a citizen challenged the propriety of the procedure by which the British Government was proposing to pay a

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monetary contribution to the European Community in order to fulfil an undertaking made by the representatives of the Government. The Government proposed to follow a procedure of an Order in Council to be approved by both Houses of Parliament, whereas the applicant contended that an Act of Parliament should be passed instead. The application was dismissed by the Queen's Bench Division (Woolf J) not on the ground of lack of *locus standi* but on the ground that it was a matter for Parliament to adjudicate on. As to the *locus standi* Mr. Justice Woolf in the Queen's Bench Division said that:

> he would be surprised if a public spirited citizen was prevented from coming before a Court to prevent an unconstitutional and unauthorized disposal by the Government of funds.
> (The Times L.R. 8 December 1984)

In the Court of Appeal, [1985] 1 All ER 589, it was held that the applicant as a taxpayer had sufficient *locus standi,* to raise this question by way of an application for judicial review, Slade LJ said:

> I do not feel much doubt that Mr. Smedley, if only in his capacity as a taxpayer, has sufficient *locus standi,* to raise this question by way of an application for judicial review; on the present stage of the authority, I cannot think that any such right of challenge belongs to the Attorney General alone.
> ([1985] 1 All ER 589 at 595)

In view of this liberation achieved by the introduction of O. 53 which was later propped up by s. 31 of the Supreme Court Act, the applicants, as both *Blackburn's and Smedley's* cases have shown, if they are private citizens, need not have to proceed by way of relator action making the Attorney-General as the dominant complainant to challenge the legality of an administrative or executive decision, although of course the Court still retains its discretion whether to exercise the judicial review or not. In both *Blackburn & Smedley's* cases, the Court held that the applicant had *locus standi,* but refused the applications because the matters complained of were not within the jurisdiction of the Court to consider. In *Blackburn's* case the applicant requested the Court to tell the Commissioner of Police, London to do his duties whilst in the *Smedley's* case the applicant required the Court to tell the Executive how to proceed to implement its Common Market undertaking.

Back in Malaysia, since we have not accepted O. 53 and its statutory underpinning (i.e., s. 31 of the Supreme Court Act) there is no justification therefore for us to depart from the rule of *locus standi* accepted by the highest Court in England prior to O. 53.

Speaking on the effect of O. 53, Lord Ackner in his Paper presented at the Fourth International Appeal Judges' Conference said:

> Judicial review, certainly in English law, is a growth industry. In the last five years it has increased by over a 100 percent., from 500 applications to over one thousand excluding criminal applications. The leading English textbook on administrative law, written by that distinguished academic well-known in Malaysia, Professor Sir William Wade QC has developed from a slim little volume first published in 1961 to a heavy tome approaching a thousand pages in its 5th Edn. published five years ago, and there is clearly much more to follow in the 6th Edn."

This growth must have been due to the change in the law.

In Malaysia there are two important judgments on *locus standi*. The first is *Lim Cho Hock v. Government of the State of Perak, Menteri Besar, State of Perak and President, Municipality of Ipoh* [1980] 2 MLJ 148, and the second is *Othman Saat v. Mohamed Ismail* [1982] 2 MLJ 177.

In *Lim Cho Hock's* case the plaintiff was a member of Parliament for the parliamentary constituency of Ipoh as well as a member of the Perak State Legislative Assembly for the

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constituency of Kepayang and a ratepayer within the area of Ipoh Municipality. He challenged the legality of the appointment of the Menteri Besar, Perak as President of Ipoh Municipal Council. It was held that as a ratepayer the plaintiff had *locus standi*.

In the, second case, i.e., *Othman Saat's* case, the respondent who was one of 183 applicants for State land felt aggrieved because after waiting for eight years without any response from the State Authority he subsequently learnt to his horror that the land he and others had applied for was alienated to a number of people who did not appear to deserve the land at all, one of whom was the appellant who was then the Menteri Besar of Johore. The Federal Court held that the respondent had *locus standi*. The failure of the State Authority to decide upon his application, the alienation of the land in question to other persons and conversely his expectation that his application would be decided one way or the other and that he would not be kept in suspense for a long time only to learn later that the subject-matter of his application had gone to someone else; all these constituted his standing to commence the proceedings.

In my judgment these two cases represent the high water marks of the law of *locus standi* in Malaysia, beyond which the Court should be careful to tread. Both these cases can be justified on the basis that the plaintiff had a genuine private interest to be furthered and protected.

What is important about *Othman Saat's* case is that part of the judgment which dealt with the approach which the Court should take when confronted with the question of *locus standi*, Here is what the Court said:

> The sensible approach in the matter of *locus standi* in injunctions and declarations would be that as a matter of jurisdiction, an assertion of an infringement of contractual or a proprietary right, the commission of a tort, a statutory right or the breach of a statute which affects the plaintiff's interests substantially or where the plaintiff has some genuine interest in having his legal position declared, even though he could get no other relief, should suffice.

Taking this approach, let us now examine the basis of the respondent's claim on *locus standi*.

First he says he is the leader of the opposition, i.e., a politician. It is common knowledge that a politician works for voters' support. From his statement of claim it appears that the respondent brought up this complaint to court because of his inability to prevent the formation of the NSH contract by political means. The question is: Is he motivated by public spiritedness or by an expectation of political gain and popularity? Would political grievances give him the *locus standi*? In my judgment the Court should be slow to respond to a politically motivated litigation unless the claimant can show that his private rights as a citizen are affected. Similar caution was expressed by Salmon LJ in *Blackburn's* case [1971] saying that he deprecated "litigations the purpose of which is to influence political decisions." Thus as a politician the respondent's remedy in this matter does not lie with the Court, but with Parliament and the electorate.

Next, as a frequent road and highway user, I cannot see how he could be different from other road and highway users. There is nothing to show that he would be prevented from using roads and highways, already constructed or proposed to be constructed. If he objects to the tolls that are to be imposed for using the proposed NSH he has, like any other users, an option either to use the highway or to use old or other roads. Thus, as a road and highway user, he also has no *locus standi*.

I now come to the question whether as a taxpayer the respondent has *locus standi* to bring this suit against the Government. According to *Smedley's* case a taxpayer had *locus standi*,

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but that case like many other cases I referred to earlier was decided under the new procedure of judicial review introduced by RSC O. 53 which enlarged the meaning of *locus standi* to "sufficient interest". But we have not adopted this new procedure in our High Court Rules. Therefore the question whether or not the respondent as a taxpayer has *locus standi* to interfere in the NSH contract must, in my judgment, be answered in the negative.

Under Art. 68(1) of the Constitution the Government can make contracts and can sue and be sued. In the making of a contract s. 2 of the Government Contracts Act 1949, ensures that if the contract is reduced to writing it should be made in the name of the Government and signed by a Minister or a public officer authorized by a Minister. There is nothing in the Constitution or in the Government Contracts Act which imposes a legal duty on the Government to consult and accept the views of any taxpayer or group of taxpayers or to hear objections. There may be a moral and political obligation on the part of the Government to be mindful of taxpayers' objection, but this is not a basis for the Court to find a legal duty giving any taxpayer *locus standi* to maintain this suit. Such moral obligation should be addressed at other forums.

Hence I fail to see how the respondent, whether as a politician, a road and highway user or a taxpayer could have *locus standi.*

(d) ***Oral Judgment of the Supreme Court***

This leaves me to say something about the oral judgment of this Court delivered on 25 August 1987. The Attorney-General prefaced his submission by saying that the previous proceedings before this Court were in law still *ex parte* proceedings, being a continuation of proceedings before Edgar Joseph Jr. J because, he said, no appearance by either the Government of UEM had then been filed. Thus, he submitted, the ruling of the Court would only be provisional and therefore not binding and in any event it was only an un-reasoned decision. Karpal Singh on the other hand countered the submission saying that the proceedings were in fact and in law *inter partes* proceedings and the ruling of the Court therefore should stand.

Whatever the merits and demerits of these arguments, in my judgment, the wording and the tenor of this short oral judgment clearly show that the Court did not consider its ruling to be a definitive or conclusive one. In this connection it should be recalled that the matter before the Supreme Court, then only concerned the refusal by Edgar Joseph Jr. J to grant the respondent's application for an *ex parte* interim injunction. The evidence available before the Court was only the respondent's affidavit which in effect is a mere repetition of his statement of claim. The Court then had not the advantage of full arguments as had V.C.George J and us. Thus the decision could, only be no more than a provisional or *prima facie* one. This is confirmed by a proviso in the oral judgment itself which says that UEM and the Government were "at liberty to apply." Presumably "to apply" means to apply to the High Court to set aside the interim injunction. Hence I cannot see anything in the oral judgment which inhibits the Court from considering the problem of *locus standi* again.

(e) ***Judicial Discretion***

So much has been said on issues of lack of reasonable cause of action, lack of *locus standi* and abuse of Court's processes and injunction against the Government and its servants. There is, however, one other issue, which, I think, is pertinent to this case. Assuming that I am wrong on the question of *locus standi*, and that the respondent therefore has *locus standi*, another question arises as to whether this is a sort of case in which the Court would exercise its discretion to issue the declaration applied for. To answer this question it is necessary to examine the substance of the respondent's complaints.

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There can be no doubt that the respondent's complaints are grave and serious and have even assumed the status of national importance and celebrity. But what in reality are they?

The respondent objected to the signing of the contract because he said the Ministers involved in the making of the cabinet decision concerning the NSH contract are all guilty of a criminal offence of corrupt practices under Ordinance 22; the allegations being that these Ministers are biased in favour of UEM because UEM belong to UMNO of which the Prime Minister is the President and the Minister of Finance is an important office bearer and that the Minister of Works, who is the President of MIC, sold to UEM one million worth of MIC lottery tickets. The respondent also objected to the government's rejection of tenders of two companies who are UEM's rivals despite the fact that these tenders were much lower. It was therefore scandalous and economically unwise for the government to commit such a huge expenditure from the public fund.

Shorn of any emotional and psychological elements which a complaint of this nature generates, in essence and effect the complaint is an invocation of the Court's aid in order to prevent not merely a threatened illegal act (the signing of the NSH contract) by the Government but also to enforce criminal law against these three Ministers. This raises a constitutional question of great importance involving the position of the Attorney-General and the dichotomy between criminal law and civil law.

In this connection we must remind ourselves of our true function in this appeal. We are not sitting as a criminal Court holding a criminal trial nor are we hearing a criminal appeal. We are also not sitting as a Commission of Enquiry investigating into the wisdom, malpractice and misdeed of the government and its officials. We are only sitting as a ultimate civil Court of appeal of the nation in which our duty is to deal only with such issues of law and facts as relate and are relevant to the case.

As stated previously the basis of the respondent's application for declaration is the allegation of corrupt practice by the Prime Minister and the two Ministers. V.C. George J in the Court below admirably dealt with the legal as well as factual aspects of the offence pertaining to the negotiation and formation of this contract and he finally came to the conclusion that there were issues to be tried. But the question is; are these issues, which are in no uncertain term allegedly criminal, to be tried in a civil Court by the civil process? Is the respondent's application not an invitation to the civil Court to exercise criminal jurisdiction?

In *Gouriet's* case the House of Lords was confronted with similar questions. The House refused to allow the enforcement of criminal law by a civil Court. Lord Diplock reminded the House of the importance of keeping a difference "between private law and public law" meaning, in the context of that case, civil law and criminal law. In the words of Lord Diplock "it is the failure to recognise this distinction that has ... led to some confusion and an unaccustomed degree of rhetoric in this case". I accept this approach in view of the separation of the system of criminal justice from that of the civil justice system. It is unacceptable that criminal law should be enforced by means of civil proceedings for a declaration when the Court's power to grant that remedy is only at the discretion of the Court. Jurisdiction of a criminal Court is fixed and certain. The standard of proof in a criminal case is different from that required in a civil case and moreover the Attorney-General is the guardian of public interest and as the Public Prosecutor, he, not the Court, is in control of all prosecutions. How can a prosecution of this nature be done behind his back? These are some of the most serious objections to the exercise by a civil Court of its discretionary power relating to declaratory and injunctive remedies. Our system requires the public to trust the impartiality and fair-mindedness of the Attorney-General. If he fails in his duty to exhibit this sense of

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fairness and to protect public interest of which he is the guardian, the matter can be raised in Parliament or elsewhere.

Finally if the objection of the respondent to the NSH contract is based on the ground of its excessive costs and unfairness to UEM's rivals, the jurisprudence of the Court is that it is not for the Court to interfere in the matter because the wisdom and policy decision of the Government belongs to the Government. We cannot tell the public authority how to exercise its power (per Lord Justice Lawton in *Blackburn's* case [1980] TLR 13 at p. 15). Consequently, all those figures and reports showing economic feasibilities for and against the project are absolutely irrelevant and serve no purpose.

In view of what I have said earlier I would allow the appeals and order that the suits against UEM and the Government be dismissed and the interim injunction discharged. I would also order that deposit of the appeal paid by UEM be refunded and as regards costs each party should bear its own costs both here and in the Courts below.

Abdul Hamid CJ:

This appeal raises an issue of considerable importance. The central issue revolves round the question of '*locus standi*' of a private person seeking declaration and an injunction in a case for the enforcement of a public right purportedly for public interest.

'*Locus standi'* is generally understood to mean the right of a party to appear and be heard by a tribunal. A litigant is said to have *locus standi*, in effect standing to sue in a Court of Law, if that Court recognises his or her ability to institute and maintain proceedings before it. The question of standing is thus separate and distinct from questions of the substantive merits and the legal capacity of the plaintiff. It follows, therefore, that a litigant may lack standing to bring a case which would succeed if brought by the right litigant.

Put in a nutshell, the law of standing to sue has two fundamental rules. First, apart from certain cases in which standing to sue is in the discretion of the Court, the plaintiff must possess an interest in the issues raised in the proceedings. Second, where the private plaintiff relies on a interest in the enforcement of a public right and not of a private right, standing will be denied unless the Attorney-General consents to a relator action, or the plaintiff can demonstrate some special interest beyond that possessed by the public generally.

Now, there are two limbs in the arguments that standing rules help in the allocation of scarce judicial resources. One of these is that liberalising the rules will open the flood gates to litigation: see *Dyson v. AG* [1911] 1 KB 410. The other is that judicial resources being always strictly limited, when there are competing claims for access to the Courts by a busybody on the one hand and an individual with a genuine grievance on the other, priority ought to be given to the latter over the former.

A justification for standing rules relates to standing as a function of the adversary system. Self-interest is seen as the motivating force that will ensure that the parties present their respective positions in the best possible light. If the motivation of self-interest is non-existent so that the ensuing dispute is not with respect to contested rights and obligations of the parties themselves, then the assurance of diligent preparation and argument cannot exist. To quote the Law Reform Commission of British Columbia, Report on Civil Litigation in the Public Interest 1980 quoting *Baker v. Carr* 369 US 180 [1961] at 284:

> Access to the Courts must be restricted to those who have a personal interest in the litigation if, in the words of the Supreme Court of the United States, the Courts are to ensure that

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concrete adverseness which sharpens the presentation of issues upon which the Courts so largely depends.

The other justification for standing rules relates to the private individual plaintiff suing with respect to a matter of public interest unless the Attorney-General consent reflects a constitutional principle about the division of responsibility between the executive and the judiciary; see e.g., *Gouriet v. Union of Post Office Workers* [1978] AC 435, 490 per Viscount Dilhorne. Alternatively, an institutional view is advanced which notes that the public interest embraces broader concerns than those properly addressable by Courts of law:

> The decisions to be made as to public interest are not so much as Courts are fitted or equipped to make. The very fact, that, as the present case very well shows, decisions are of the type to attract political criticism and controversy, shows that they are outside the range of discretionary problems which the Courts can resolve. Judges are equipped to find legal rights and administer, on well-known principles, discretionary remedies *ibid* at p. 482 per Lord Wilberforce.

I would not analyse very briefly the judgment of the Court below and the cases relied on therein as showing that the plaintiff in the instant case had the necessary *locus standi* to bring and to maintain the present proceedings.

In the first place, the learned Judge referred to the oral judgment of the Supreme Court reversing the High Court Penang by imposing the injunction hereinbefore mentioned against UEM.

The oral judgment of the Supreme Court was very brief and is hardly necessary that it be set out here. It is to be observed that the *locus standi* point was not an issue before the High Court in Penang where the application for injunction was refused on three separate grounds: (a) that the injunction sought although in form against UEM was in substance and intent an injunction against the Government and so s. 29 of the Government Proceedings Ordinance 1956, constituted an absolute bar to the application; (b) that having regard to the balance of convenience to grant the injunction would amount to impugning the powers of the Government to enter into contracts and, so, contrary to public interest and (c) that there had been long and unexplained delay on the part of the plaintiff both in the institution of the suit and the bringing of the application. In this regard I fully subscribe to the finding of the learned Judge Edgar Joseph Jr. as to the construction to be placed on s. 29 of the Government Proceedings Ordinance 1956.

The Supreme Court clearly had dealt with only ground (a). As to the *locus standi* point, there was only a casual reference made to it.

It is therefore understandable why the point was taken before the learned Judge that the judgment of the Supreme Court on the issue of *locus standi* was merely *obiter dicta.*

The learned Judge did not however feel constrained to decide whether this part of the judgment of the Supreme Court was *obiter dicta* or *ratio decidendi.* Instead he expressed the view that - "In the instant case, the judgment of the Supreme Court is a mere precedent that bears analysis to discover what is *ratio* and what is *dictum* and whether the finding were *per incuriam* or otherwise." He therefore concluded that it was not a judgment which it was open to him to review and proceeded to observe that "even the Supreme Court may not review its own judgments." With respect, I would say that while the Supreme Court will not review its own decisions, it may however, where necessary, depart from a previous decision, though it will not, of course, lightly do so.

At this point I refer to the case of *Williams v. Fawcett* [1986] 1 QB 604 at 615, 616 (CA)

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where Sir John Donaldson MR, after stating that exceptional case to depart from its previous decisions, approved the following passages in *Young v. Bristol Aeroplane Co. Ltd.* [1944] KB 718 at 729:

> Where the Court has construed a statue or a rule having the force of a statute its decision stands on the same footing as any other decision on a question of law, but where the Court is satisfied that an earlier decision was given in ignorance of the terms of a statute or a rule having the force of a statute the position is very different. It cannot, in our opinion, be right to say that in such a case the Court is entitled to disregard the statutory provision and is bound to follow a decision of its own given when that provision was not present to its mind. Cases of this description are examples of decisions given *per incuriam.* We do not think that it would be right to say that there may not be other cases of decisions given *per incuriam* in which this Court might properly consider itself entitled not to follow an earlier decision of its own. Such cases would obviously be of the rarest occurrence and must be dealt with in accordance with their special facts.

and in *Morelle Ltd. v. Wakeling* [1955] 2 QB 379:

> As a general rule the only cases in which decisions should be held to have been given *per incuriam* are those of decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the Court concerned; so that in such cases some part of the decision or some step in the reasoning on which it is based is found, on that account, to be demonstrably wrong. This definition is not necessarily exhaustive, but cases not necessarily exhaustive, cases not strictly within it which can properly be held to have been decided *per incuriam* must, in our judgment, consistent with the *stare decisis* rule which is an essential feature of our law, be, in the language of Lord Greene MR, of the rarest occurrence. In the present case it is not shown that any statutory provision or binding authority was overlooked ... As we already said, it is, in our judgment, impossible to fasten upon any part of the decision under consideration or upon any step in the reasoning upon which the judgments were based and to say of it: 'Here was a manifest slip of error'.

In *Attorney-General for Ontario v. Canada Temperance Federation* [1946] AC 193, a Privy Council case, Viscount Simon observed: "Their Lordships do not doubt that in tendering humble advice to His Majesty they are not absolutely bound by previous decisions of the Board, as the House of Lords is by their own judgments."

But when Lord Gardiner became Lord Chancellor he took a leading part in the discussions on precedent. On 26 July 1966, he made a statement in the House of Lords when all the then Lords of Appeal in Ordinary were present. The crucial paragraph in his statement was as follows:

> Their Lordships nevertheless recognise that too rigid adherence to precedent may lead to injustice in a particular case and also unduly restrict the development of the law. They propose, therefore, their present practice and, while treating former decisions of this House as normally binding, to depart from a previous decision when it appears right to do so.

In *Malaysia National Insurance Sdn. Bhd. v. Abdul Aziz bin Mohamed Daud* [1979] 2 MLJ 29, Raja Azlan Shah FJ (as he then was) speaking for the Federal Court, said this:

> However, I would once again emphasize what has so often been said before, that precedents are not to be slavishly followed; a case **may** be followed only for its strict *ratio decidendi*. (Emphasis supplied) ...

Reverting to the judgment of the Supreme Court, my view is that since the point as to *locus standi* had not strictly been in issue, it is wholly gratuitous and entirely *obiter*. Indeed the decision therein turned on one issue only; namely, whether or not the High Court in Penang

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had construed s. 29 of the Government Proceedings Ordinance 1956 too widely.

I must now direct my attention to the *locus standi* point which arises acutely for decision in the application to strike out which has been fully argued before us.

Clearly, the main hinge upon which the judgment of the learned Judge rested as regards the *locus standi* point was the judgment of the Federal Court in *Othman Saat v. Mohd. Ismail* [1982] 1 MLJ 177.

Having regard especially to the very full arguments which have been addressed to the Court and the obvious public importance of the case before the Court, I consider that the time is now ripe for us to restate our position on the law of standing in this country.

It was Lord Denning who first provided the running to liberalise the law of standing in England. He did this in two ways; first, he recognised every one's interest in seeing the law enforced and secondly, in according that recognition to all public law cases, no matter what the remedy sought was. To illustrate I shall quote from his judgment in *ex parte Blackburn* [1976] 1 WLR 550 at 559:

> I regard it as a matter of high constitutional principle that if there is good ground for supposing that a government department or a public authority is transgressing the law, or is about to transgress it, in a way which offends or injures thousands of Her Majesty's subjects, then any one of those offended or injured can draw it to the attention of the Courts of law and seek to have the law enforced, and the Courts in their discretion can grant whatever remedy is appropriate.

He did, however, add that as a matter of discretion, the prerogative remedies will be refused "to a mere busybody who is interfering in things which do not concern him" (at p. 559).

I now refer to *Gouriet v. Union of Post Office Workers, supra.* In that case there was a proposed temporary union ban on communications to and from South Africa. The ban would have been criminal, and yet, the Attorney-General, without explanation, refused to sue or lend his name to a relator action. In the Court of Appeal Lord Denning thought that the case involved a point of high constitutional principle (at pp. 736, 737) and asked "What is to be done about it? Are the Courts to stand idly by? Is the Attorney-General the final arbiter as to whether the law should be enforced or not?" And then he concluded: "The plain fact is that the law must be obeyed."

The House of Lords, however, did not agree and reversed the Court of Appeal judgment. The majority view there was that the same standing rule applies whether the remedy sought is a declaration or an injunction. Either the plaintiff's "rights" must be at stake, or, if the matter does not concern private rights, the plaintiff must suffer or be about to suffer "special damages" peculiar to himself. The main plank in the reasoning of their Lordships regarding the monopoly enjoyed by the Attorney-General in speaking for the public is best illustrated by the following passage in the judgment of Lord Diplock:

> My Lords, at the heart of the issue in these appeals lies the difference between private law and public law. It is the failure to recognise this distinction that has in my view led to some confusion and an unaccustomed degree of rhetoric in this case.

It is true to say, however, that *Gouriet's* case was distinguished in the House of Lords case of *Regina v. Inland Revenue Commissioner, ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1982] AC 617 (popularly known as the *Fleet Street Casuals* case). In that case, the applicant was a company formed to promote the interest of small businesses. It alleged that its constituents and other non-unionists were pursued without mercy for not paying their taxes. The applicant accordingly sought judicial review of a deal struck by the

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Revenue with printing industry unions following the offer of an amnesty whereby certain tax investigations would be dropped in return for union co-operation in securing an end to casual workers evading income tax by using fictitious names. On the ground that the unions were receiving preferential treatment, *mandamus* and declaratory relief were sought.

In these circumstances, the applicant could point to no injury or "interest" beyond the sense of grievance at what seemed to them as preferential treatment being accorded to union members in defiance of the law. At the hearing before the Divisional Court, pursuant to leave having been granted *ex parte* for judicial review, the Revenue appeared and challenged the applicant's standing by way of a preliminary objection.

The preliminary objection was upheld and the application dismissed without an examination of the merits.

The House of Lords were unanimous that it was at least "unfortunate" (per Lord Wilberforce) for the Divisional Court to have determined the standing issue without regard to the merits.

Lord Wilberforce insisted that standing was a threshold issue whilst at the same time maintaining that except in the most obvious cases, it would usually be convenient to postpone consideration of the issue until argument on the merits. He also said that taxpayers usually lacked standing to litigate the affairs of other taxpayers. But he did also say (at p. 633):

> That a case can never arise in which the acts or abstentions of the revenue can be brought before the Court I am certainly not prepared to assert, nor that, in a case of sufficient gravity, the Court might not be able to hold that another taxpayer or other taxpayers could challenge them. Whether this situation has been reached or not must depend upon an examination, upon evidence, of what breach of duty or illegality is alleged.

And, further down, at p. 634:

> a sense of fairness as between one taxpayer or group of taxpayers and another is an important objective, so that a sense of unfairness may be the beginning of a recognisable grievance.

Lord Roskill shared Lord Wilberforce's view when he made the concession that there is a possibility of judicial review at the instance of strangers if the government's behaviour were "grossly improper" (at p. 662) and emphasised the need in most cases to proceed to a hearing on the merits before the question of standing could be examined. Nevertheless, he rejected Lord Denning's "high constitutional principle" in the *Blackburn* case saying that it amounted to the virtual abolition of the standing requirement (at p. 661). Lord Fraser, on the other hand, expressed agreement with Lord Wilberforce and Roskill and then asserted that standing was not simply a matter of discretion. He concluded, however, that an "exceptionally grave or widespread illegality" might be judicially reviewable by any taxpayer (at p. 647). Lord Diplock approved of Lord Denning's "high constitutional principle" for cases involving "flagrant and serious (governmental) breaches of the law" (at p. 644). He said the "whole purpose" of the leave requirement (which under the new O. 53, r. 3(7) introduced a common standing test namely that of a "sufficient interest") is to filter out hopeless cases (p. 643). So also, Lord Scarman who approved of Lord Denning's approach (at p. 654) adding that the leaving requirement was a matter for judicial discretion and was designed solely to filter out hopeless cases or cases brought by "busybodies" (at p. 953).

Clearly, therefore, those members of the Court in the *Fleet Street Casuals* case who were in favour of retaining the requirement of standing were of the view that the requirement should no longer be defined by using different formulae appropriate to the different remedies

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available in public law. The term "sufficient interest" in the new English O. 53, r. 3(7) - which incidentally has no counterpart in our Rules of the High Court 1980, was sufficiently flexible to express a requirement which can vary as the relationship between the subject matter, the remedy sought and the applicant varies (at pp. 631, 645-646 and 658-659).

For a true appreciation of the *Fleet Street Casuals* case some general observations should be made regarding the English Rules of the Supreme Court which were re-written in 1977 with the introduction of a new O. 53. The new Rules preserve the prerogative remedies two stage process but are no longer referred to as rules *nisi* or absolute. Applicants must apply (usually *ex parte*) for leave to file an originating motion seeking judicial review. Short time limits apply and discovery and interrogatories are available. The procedure has not only been standardised for orders in the nature of the old prerogatory remedies but it is also expressed as being applicable where a declaration or an injunction is sought. In *O'Reilly v. Mackman* [1983] 2 AC 237, the House of Lords has held it is an abuse of process to bypass the leave requirement of O. 53 by issuing a writ for a declaration or injunction. It is important to note, as I have earlier observed that O. 53 r. 3(7) introduced a common standing test namely that of "sufficient interest."

It has been said that the modern approach to standing in England under the new O. 53 can be summarised thus; provided that the applicant has an arguable case he will probably be given leave to apply for judicial review. At the full hearing, if he has a meritorious claim, the Court will strive to accord *locus standi* so long as he is not a mere busybody with no legitimate complaint; see R.J.F. Gordon on *Judicial Review Law and Procedure* - para. 4-07 p. 51.

But even in England under the present relaxed standards which apply to standing if the applicant's interest in the matter under dispute is not direct or personal but is general or public, it will be for the Court to determine whether he has the requisite standing to apply for judicial relief. Moreover, it has been said that the formula "sufficient interest" is not intended to create a class of persons popularly referred to as private "attorney-generals" who seek to champion public interests in which they are not themselves directly or personally concerned, under the guise of applying for judicial review; See Annual Practice, 1985 p. 765 paras. 53/1 - 14/47.

But in Malaysia there is no provision in our Rules of the High Court equivalent to O. 53 r. 3(7) of the English Rules of the Supreme Court. Thus, in my view, there shall be stringent requirement that the applicant, to acquire *locus standi,* has to establish infringement of a private right or the suffering of special damage: see *Gouriet v. Union of Post Office Workers, supra,* and also *Boyee's* case (13) and this, I consider, to be the relevant test to apply when determining the question of standing.

It is noteworthy, that in the *Fleet Street Casuals* case Lords Diplock and Scarman made the significant assertion that before the new O. 53, declarations and injunctions were confined to private law, being available only to those whose "rights" were infringed or threatened. Moreover, the majority distinguished the *Gouriet* case (*ibid*) on the basis that the standing rule applicable to declarations and injunctions was now different where O. 53 was being used (at pp. 638-639, 649 and 657-658). The new O. 53, they said, introduced not merely a standard procedure for all public law remedies but also a common standing test, namely the O. 53 r. 3(7) "sufficient interest" test. Some of the judgments accepted that this formula was flexible enough to allow for differences in approach having regard to the relief sought (at pp. 631, 645-646, 658-659). Others acknowledged that the new rule was the occasion for rethinking their position on the law of standing (at pp. 631, 646-646 and 647-648).

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In all the circumstances, I would treat the *Fleet Street Casuals* case as one based upon a unique rule of Court which has no counterpart in this country. This point is a crucial factor which does not appear to have been taken into consideration by the Judge in *the Othman Saat* case. In any event, as I have already noted, I would prefer the test of standing propounded by their Lordships in the *Gouriet* case; that is to say, the same standing rules apply whether the remedy sought is a declaration or an injunction. And, either, the plaintiff's "rights" must be at stake, or when, as in the present case, the matter does not concern private rights, the plaintiff must suffer or be about to suffer damage peculiar to himself. In the *Othman Saat* case a liberal approach in considering the requirement of a *locus standi* was advocated. Speaking for myself, I would hesitate to say that a mere 'legitimate grievance' or 'a real interest' in the suit will suffice to show standing to sue. Be that as it may, I would say that the decision in *the Othman Saat* case was correct having regard to the facts of that particular case.

Applying the preferred test, I fail to see how in the particular circumstances of this case, it could be said that the plaintiff had the necessary *locus standi* to institute or maintain the present proceedings. Before I conclude I would touch briefly on the accusations of criminality made against those who participated in the Cabinet decision.

In his statement of claim which was verified by his affidavit filed in support of the application for the interlocutory prohibitory injunction, the plaintiff claimed that he was bringing this action as a Member of Parliament, leader of the Opposition, a taxpayer, a motorist and a frequent user of highways and roads in the country. He has cited as defendants to the action UEM, the Minister of Finance, the Minister of Works and the Government of Malaysia as defendants. He has prayed that the Court should declare the award of the letter of intent null and void and for an order restraining UEM from entering into any contract pursuant to the letter of intent. To quote his Counsel when speaking for him before the learned Judge "the core of his contention was the contravention of s. 2 of the Ordinance No. 22 of 1970." In particular, it was contended that UMNO would benefit by the award of the contract to UEM and this amounted to an advantage to members of UMNO who participated in the decision making process at the Cabinet meeting concerned thus resulting in the contravention of s. 2 of the Ordinance.

The learned Judge appears to have been much impressed with these submissions for, after reviewing a number of cases where accused persons were prosecuted for offences in contravention of s. 2 of the Ordinance, he concluded that "the contention of Counsel for the plaintiff appears to be well founded. The statement of claim certainly raises serious questions to be tried within the meaning of *American Cyanamid*. That the claim of the plaintiff is frivolous or vexatious or an abuse of the process is without merit."

With all due respect to the learned Judge, my view is clear in that fundamentally where a statute creates a criminal offence by prescribing a penalty for the breach of it but not providing a civil remedy - the general rule is that no private individual can bring an action to enforce the criminal law, either by way of an injunction or by a declaration or by damages. I am inclined to the view that it should be left to the Attorney-General to bring an action, either of his own motion or at the instance of a member of the public who "relates" the facts to him: see *Gouriet* case (*ibid*).

Finally, I would like to refer to a query that was raised in the course of the appeal in relation to s. 29 of the Government Proceedings Ordinance 1956 considered in the light of *ex parte Herbage*. The respondent's answer to the point raised was that *ex parte Herbage* did not

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apply in view of our O. 53. And that the definition of "civil proceedings" in s. 2(2) of the Ordinance should refer to the position as it stood in 1956 when the Ordinance was enacted and should not therefore be affected by changes brought about to the English O. 53 in 1977.

Tan Sri Eusoffe Abdoolcader SCJ said that there was a lack of substance in this proposition. The question is was there really? It is to be observed that the changes brought about by the English O. 53 in 1977 resulted in an omnibus provision to include not only the prerogative orders of *mandamus,* prohibition and *certiorari*, but also the remedies of declarations, injunctions, etc. It may well be argued that the correct answer is to be found in the so called principle that a statute is to be treated as always speaking and that the exception in s. 2(2) of the Ordinance is an on-going statutory provision. The elementary point to note, however, as regards s. 29 of the Ordinance is that it affords a defence to the Government or a servant of the Government to a claim for an injunction subject to compliance with the requirements therein stated. The section therefore deals with rights and not procedure.

That being so, the question which arises is whether such a defence which cannot be said to be available if the point had arisen for decision prior to 1977 can be said to have been taken away by the simple expedient of an amendment to a rule of Court made subsequently in a foreign jurisdiction. I regret I find myself unable to subscribe to this proposition since not only are we an independent sovereign country whose Parliament has seen fit to repeal the right of appeal to the Judicial Committee of the Privy Council in all matters but also because we have our own O. 53 which is limited to prerogative orders only and does not extend to claims for declaration, injunction or damages. Clearly, any lengthy discussion on s. 29 should not have overlooked this crucial factor.

I would accordingly hold that the exception to the definition of "civil proceedings" in s. 2(2) of the Ordinance which reads "or such proceedings as would in England be brought on the Crown side of the Queen's Bench Division" must refer to the prerogative jurisdiction of the Queen's Bench Division in England as at the date of the coming into force of the Ordinance and which was then limited to the granting of orders of *mandamus*, prohibition and *certiorari* only.

Consequently, as the claim in the present case was for a declaration and injunction it fell fairly and squarely within the four walls of the definition of "civil proceedings" appearing in s. 2(2) of the Ordinance. It follows that the defence under s. 29 applies and the case of *ex parte Herbage* is, therefore, wholly inapplicable.

In consideration, I would allow both the appeals and hereby order that both the orders of the Judge be set aside and both suits be dismissed and injunction set aside. As to the costs my order is that each party shall bear its own costs here and in the Court below.

Hashim Yeop Sani SCJ:

The crucial question in both the appeals is the question of *locus standi* of the respondent, Mr. Lim Kit Siang. Has Mr. Lim Kit Siang standing, i.e., the qualifications in law, to bring the suit in Court?

The first difficulty to surmount in this regard is what appears to be a ruling on the *locus standi* of the respondent made in the oral judgment of the Supreme Court (Lee Hun Hoe CJ, Borneo, Wan Suleiman SCJ and Wan Hamzah SCJ) delivered by Lee Hun Hoe CJ Borneo and appears at p. 174 of the Appeal Record in Civil Appeal No. 434 of 1987 as follows:

> We have considered a number of authorities both English and local as to the question of *locus standi.* We need only say that on the facts of this case the appellant clearly has *locus standi* to bring this suit.

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The appeal before the Supreme Court then was from the judgment of Edgar Joseph Jr. J who had refused an interlocutory prohibitory injunction sought by the respondent restraining United Engineers (M) Bhd. by itself or through its agents and/or servants from signing the proposed contract on the North-South Expressway. The refusal by the learned Judge was based on the grounds *inter alia* that the injunction if granted would be in violation of s. 29 of the Government Proceedings Act and also that the balance of convenience would be against granting the injunction. It is clear from the record that the question of *locus standi* was not an issue before Edgar Joseph Jr. J and as such *locus standi* was never an issue in the memorandum of appeal before the Supreme Court then. It would appear that the question of *locus standi* of the respondent was casually raised in the course of argument in the appeal.

A precedent is "in point" if there was raised, argued and decided in it in relation to one set of facts some issue of law which is the same as has arisen now before the Court. In as much as it is the function of the Court deciding in a later case to ascertain what the *ratio* of a precedent is, it must also decide what is mere *obiter dicta* or *judicial dicta* i.e., not part of a *ratio* but relevant only to a collateral matter.

Dealing with the question when a Court is bound by the judgment of another Court, either superior or coordinate, Viscount Dunedin in *Great Western Railway Co. v. Owners of SS Mostyn* [1927] AC 73 said at p. 73:

> And if from the opinions delivered it is clear - as is the case in most instances - what the *ratio decidendi* was which led to the judgment, then that *ratio decidendi* is also binding. But if it is not clear, then I do not think it is part of the tribunal's duty to spell out with great difficulty a *ratio decidendi* to order to be bound by it.

In my view the circumstances under which the question of *locus standi* was raised and the reference to it in the sketchy oral judgment of the Supreme Court then should not preclude this Court from considering the question of *locus standi* of the respondent where before this Court the issue was canvassed throughout as a fundamental issue and argued at great length by both parties.

On the question of binding precedents the House of Lords is no longer bound by its own previous decisions - see *Practice Statement (Judicial Precedent)* [1966] 1 WLR 1234 issued by Lord Gardiner LC on behalf of himself and the Lords of Appeals in Ordinary on 26 July 1966. The Indian Supreme Court in *The Bengal Immunity Company Limited v. The State of Bihar & Ors.* [1955] 2 SCR 603 held that it would not be bound by its own previous decisions and that nothing in the Constitution prevented the Supreme Court from departing from its previous decisions. The United States Supreme Court too has a number of times reversed itself. The Privy Council has also held that it was not absolutely bound to follow its earlier decisions. In this country too the appellate Court has been known to reverse its previous decisions as shown in *PP v. Ooi Khai Chin & Anor.* [1979] 1 MLJ 112 Where the Federal court reversed its previous desision in *PP v. Tai Chai Geok* [1978] 1 MLJ 166 on the question of interpretation of jurisdiction.

Of course the decision to depart from precedents must be exercised with caution and circumspect. It is a question of judicial responsibility. It is also a question of competing claims between justice and certainty. As Lord Gardiner LC said:

> Too rigid an adherence to precedents may lead to injustice.

Now I come to the real crux of the matter. The basis of the claim of the respondent as set out in his statements of claim was explained in great length in the judgment of the learned Judge, VC George J whose decision is challenged in the present appeals. According to the

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pleadings it was the contention of the respondent that the contract which United Engineers (M) Bhd. proposed to enter into with the government apart from being unlawful would be adverse to the interest of the respondent as well as that of the public and that the Court should declare the letter of intent null and void and of no effect because it was tainted by the alleged breach of the provision of Emergency Ordinance No. 22. Looking at the basis of his claims and the nature of the reliefs sought it is quite obvious on the law as it now stands that Mr. Lim Kit Siang can come to Court only with the consent of the Attorney-General or by means of a relator action.

The principle that the jurisdiction of the Court can be invoked by one who seeks to protect a legal right or to obtain a declaration of legal rights as between him and some other person or authority has been extended to permit the institution of proceedings by the Attorney-General on behalf of the public. The Attorney-General represents the public in this regard. The intervention of the Attorney-General is founded on the principle that the Crown is *parens patriae* and that the Attorney-General appears for and represents the public interest. Traditionally it has been held to be basic that if the Attorney-General does not sue *ex officio* or allow someone else to sue *ex relatione* no one else can claim to represent the public interest.

It is a fundamental principle that private rights can be asserted by individuals, but public rights can only be asserted by the Attorney General as representing the public. The Courts have no jurisdiction in any circumstance to clothe a plaintiff with the right to represent the public interest.

Therefore however much one may admire Mr. Lim Kit Siang for being public-spirited to raise in Court a subject which he thinks is of national importance one must not be blind as to what is the proper law to apply to see whether he has the qualifications in law to do so. To shut out from our minds what is the proper law to apply just to enable him to ventilate his grievance would be an abdication of our duty as interpreters of the law.

In England the amendment to O. 53 of the Rules of the Supreme Court came into effect on 11 January 1978 and provides in r. 3(5) thereof for the test of "sufficient interest in the matter" before leave is granted for remedies in judicial review. This test to give standing to a party replaced the old judicially created rule of "aggrieved person". The test of "sufficient interest in the matter" is also laid down in s. 31(3) of the English Supreme Court Act 1981. This provision appears under Part II of the Act which deals with "jurisdiction". No such amendment has been made to any of our laws in this country.

Viscount Dilhorne in *Gouriet v. Union of Post Office Workers* [1978] AC 435 dealt with O. 15 r. 16 of the English Rules of the Supreme Court which is identical with O. 15 r. 16 of our Rules of the High Court 1980. It reads:

> No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether or not consequential relief is or could be claimed.

Viscount Dilhorne said at p. 495:

> It does not provide that an action will be whenever a declaration is sought. It does not enlarge the jurisdiction of the Court. It merely provides that no objection can be made on the ground only that a declaration is sought.

In short, O. 15 r. 16 of our Rules of the High Court 1980 cannot be made into a basis of jurisdiction for the Court to entertain an action which is not properly before it.

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The language of our O. 15 r. 16 is the same as that in the old English O. 25 r. 5 of 1883. On this Viscount Dilhorne said at p. 495 that:

> It provides no ground for saying that since 1883 the Courts have had jurisdiction to entertain an action instituted by a person other than the Attorney-General who does not claim that any personal right or interest will be affected and who is seeking just to protect public rights.

What then is the proper law to apply to determine the *locus standi* of the respondent here? In my opinion the principle in *Boyce v. Paddington Borough Council* [1903] 1 Ch 109 as approved in *Gouriet* is still the law applicable in this country. Buckley J propounded the law as follows:

> A plaintiff can sue without joining the Attorney-General in two cases: first, where the interference with the public right is such as that some private right of his is at the same time interfered with .... ; and secondly, where no private right is interfered with, but the plaintiff, in respect of his public right, suffers special damage peculiar to himself from the interference with the public right.

In my view we ought also to apply the common law principle enunciated in *Boyce* by virtue of s. 3 of the Civil Law Act 1956.

In Australia the same strict test was applied by the High Court when dealing with the question of *locus standi* as illustrated in *Australian Conservation Foundation v. Commonwealth of Australian* [1979-80] 28 ALR 257. The main purpose of the suit there was to challenge a decision to approve the establishment of a resort and tourist area. The Foundation was a body involved with issues affecting environment. The High Court denied standing to the Foundation. The High Court held it to be clear that "an ordinary member of the public who has no interest other than that which any member of the public has in upholding the law has no standing to sue to prevent the violation of a public right or to enforce the performance of a public duty". Gibbs J also said:

> A belief however strongly felt that the law generally or a particular law should be observed or that conduct of a particular kind should be prevented does not suffice to give its processor *locus standi*.

In this country the principle was in fact correctly stated by the Federal Court in *Tan Sri Othman Saat v. Mohamed bin Ismail* [1982] 2 MLJ 133 that "the sensible approach" in a matter of *locus standi* in injunctions and declarations would be to regard it as a matter of jurisdiction, where there is an assertion of an infringement of a contractual or a propriety right, the commission of a tort, a statutory right or a breach of a statute which affects the plaintiff's interest substantially or where the plaintiff has a genuine interest in having his legal position declared. Indeed the principle enunciated there is consistent with the principle enunciated by Buckley J in *Boyce*. However in my view the Courts in this country are not authorised by law to go beyond this principle.

No doubt s. 41 of our Specific Relief Act 1950 is an old provision and may even be regarded as antiquated but it is still in the statute book as part of our law. In the Specific Relief Act s. 41 comes under the chapter "Declaratory Decrees" and deals with person seeking declarations of status or right from the Court. That section reads:

> Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to the character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in that suit ask for any further relief:

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> Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration or title, omits to do so.

Section 41 does not sanction every form of declaration but only a declaration that the plaintiff is entitled to a specific legal character or to any right as to property. Therefore any person who has "a right to any legal character" may bring an action against anyone who denies that right. The prerequisite for such a declaratory action is that the plaintiff must first establish that he qualifies as a person **entitled** to any **legal character** or to any **right** as to any property. The legal character or the right must exist at the time the action is instituted.

After 1978 the law on *locus standi* in England was extended and liberalised by the English Courts. But in my opinion the Courts in this country have no jurisdictional basis to do the same.

This appeal, in my opinion, illustrates once again the point that we should not slavishly apply the laws in England without comparing the basis of jurisdiction. If it is felt that there is a lacuna in the law in that not every public-spirited person can come to Court then it is up to the legislature to amend the appropriate law to give jurisdiction to the Courts to entertain every such person. The Courts should not pretend to perform the function of the legislature.

It can hardly be disputed that there is no single authoritative definition of an aggrieved person but in general it can be said that a person "aggrieved" is not merely one who is dissatisfied with some act or decision but one who has been wrongly deprived of or has been refused something to which he is legally entitled. Any person can come to Court for the protection or enforcement of his rights. The basis of his standing is the assertion of his private rights. As Lord Edmund Davies said in *Gouriet*:

> It has long been established that no citizen can of his own initiative sue in our Courts on his own behalf save to assert and protect his private rights or to repel a right asserted against him by another.

Thus in my view according to the law applicable in this country Mr. Lim Kit Siang has no qualifications in law to bring the suit in Court. He has not shown that he is more particularly affected than other people. He has not shown that he has any recognisable legal right which has been infringed. He has not suffered any damage peculiar to himself by reason of the alleged breach of Emergency Ordinance No. 22.

In short it has not been shown that the rights or interests of Mr. Lim Kit Siang have been adversely affected over and above that of "the ordinary taxpayer, motorist and frequent user of highways" as he described himself. The fact that he is also a Member of Parliament or the leader of the Opposition does not alter the position. In those capacities he may acquire standing in other forums.

I would therefore allow the appeal, set aside the order of the learned Judge and dismiss the suit.

I also agree that parties bear their own costs here and below.

George Seah SCJ (dissenting):

There are 2 appeals before this Court. The first appeal (No. 434 of 1987) is by the Government of Malaysia against the dismissal by the learned Judge (V.C. George J) of their application to strike out the statement of claim under O. 18 r. 19 of the Rules of the High Court 1980 and the inherent jurisdiction of the High Court. The second appeal (No. 456 of 1987) is by United Engineers (M) Berhad or UEM in short against the refusal by the same Judge (a) to

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set aside the interlocutory injunction granted by the Supreme Court (Lee Hun Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) on 25 August 1987 and (b) to strike out the suit under O. 18 r. 19 of the Rules of the High Court 1980 and the inherent power of the High Court. The respondent in both these appeals is Lim Kit Siang. The learned Attorney-General has raised a number of important issues of law and procedure and I think I should deal with them.

Locus Standi of the respondent to bring this suit

Both the learned Attorney-General and learned Counsel for UEM have submitted strongly that the learned Judge erred in law and in fact in holding that on the facts of the case the respondent has *locus standi* to bring this suit.

It is my considered opinion that this issue of *locus standi* had been considered and decided by the Supreme Court (Lee Hun Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) when it granted the interlocutory injunction to the respondent on 25 August 1987. In fact, the standing of the respondent to institute this proceeding was raised by learned Counsel for UEM and from the record of appeal, the learned Senior Federal Counsel who appeared for the Government of Malaysia took part in the legal arguments. The Supreme Court disposed of this issue in the following words:

> We have considered a number of authorities both English and local as to the question of *locus standi*. We need only say that on the facts of this case the appellant (Lim Kit Siang) clearly has *locus standi* to bring this suit.

The learned Judge was right to hold that he was bound by the decision of the Supreme Court of 25 August 1987 on this point and I agree with him. In my opinion, this appeal is an attempt to urge this Court, albeit differently constituted and enlarged, to review and reverse the decision made by the Supreme Court on 25 August 1987 and it is my considered opinion that this Court has no jurisdiction to do so.

The latin phrase "*locus standi*" as used by the Courts" in England or "standing in Courts" as the term is commonly understood by the lawyers in the United States of America, seems to indicate that a persons is allowed by the Judges to appear and be heard in a legal proceeding. It is a procedural barrier erected by the Judges to prevent the Court's time and public money from being wasted by multiplicity of frivolous and vexatious litigations brought by busybodies whose actions are bound to fail in limine and also to prevent abuse of the legal process.

In *IRC v. Federation of Self-Employed* [1982] AC 617; [1981] 2 All ER 93 at p. 103G Lord Diplock said:

> The rules as to "standing" for the purpose of applying for prerogative orders, like most of English public law, are not to be found in an statute. They are made by Judges; by Judges they can be changed, and so they have been over the years to meet the need to preserve the integrity of the rule of law despite changes in the social structure, methods of government and the extent to which the activities of private citizens are controlled by governmental authorities that have been taking place continuously, sometimes slowly, sometimes swiftly, since the rules were originally propounded. Those changes have been particularly rapid since the 1939-45 wars. Any judicial statements on matters of public law if made before 1950 are likely to be a misleading guide to what the law is today.

In the same case and after dealing with the question of *locus standi* in public law, Lord Scarman said at p. 113J:

> The discretion belongs to the Court: and, as my noble and learned friend Lord Diplock has

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> already made clear, it is the function of the Judges to determine the way in which it is to be exercised .....

In short, the rule as regards "*locus standi*" or "standing in Courts" is not governed by any statutory enactment but is a rule of practice and procedure laid down by the Judges in the public interest. Like all rules of practice, they are liable to be altered by these to suit with the changing times.

In *Tan Sri Hj. Othman Saat v. Mohamed bin Ismail* [1982] 2 MLJ 177 the Federal Court upheld the decision of the High Court in giving *locus standi* to the plaintiff who failed in his application for a plot of land at Mersing, Johore. The appellant, Tan Sri Hj. Othman Saat was the Menteri Besar of the State of Johore at the relevant times. And in the *Federation of Self-Employed* case (*supra*) Lord Diplock observed, *obiter*, that he would accord standing to "a single public-spirited taxpayer who brought the matter to the attention of the Court to vindicate the rule of law and get the unlawful conduct stopped".

The respondent here is an elected Member of Parliament. Although he represented the parliamentary seat of Tanjung, Penang in the Dewan Rakyat yet "when he is returned and sits in Parliament he serves for the whole realm" (per Lord Shaw quoting Coke in *Amalgamated Society of Railway Servants v. Osborne* [1910] AC 87 at p. 112). Lord Ellenborough CJ in *Morris v. Burdett* [1813] 105 ER 361 at p. 364 said that "every person who is returned to Parliament is bound by the law of the land to serve". Coming nearer home in the case of *Datuk Ong Kee Hui v. Sinyium anak Mutit* [1983] 1 MLJ 37 Salleh Abas FJ (as he then was) in giving the judgment of the Federal Court said at p. 40D:

> Our system of government expects that every member of the legislature, whether Parliament or a State Assembly, should conduct himself with honour and dignity worth of his position as the nation's legislator and for this reason irrespective of his station in life and calling he is given the appellation of "The Honourable" to precede his name. It is because of this high regard and honour in which he is held that he is required to swear under Art. 59 of the Federal Constitution and the equivalent Article of the State Constitution an oath as Member of Parliament or State Assembly (as the case may be) and allegiance, instead of signing a contract as a civil servant does before taking part in the proceeding of the House. The oath binds him in conscience which should guide him how to act not only with regard to his parliamentary or legislative duties but also in his relations with his party and members of the public ....

It is plain from the statements of these distinguished members of the higher hierarchy of the judiciary both in England and Malaysia that as an elected Member of Parliament the respondent has a duty not only to the electorates of Tanjung, Penang but also to the Dewan Rakyat and the peoples of this country. If, as a Member of Parliament the respondent brings this suit *bona fide*, alleging government wrongdoings in about to award a contract in the construction of the proposed North-South Highway to UEM where an enormous sum of public moneys running into billions of ringgit would be spent illegally, I think I would be abdicating my duty if I were to hold that the respondent had no standing to institute this proceeding and that the suit was not properly brought and should not be entertained. I am therefore in complete agreement with my learned brothers in the Supreme Court (Lee Hun Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) that on the facts of this case the respondent clearly has *locus standi* to bring this suit. In my opinion, as an elected Member of Parliament, the respondent, conscious of his duty and responsibility to the electorates of Tanjung, Penang, the Dewan Rakyat and the peoples of Malaysia, clearly has a real interest in the subject matter of this suit and therefore has *locus standi* to institute this proceeding. I am not deterred by expressions of opinions in this Court that the rule on *locus standi* should not be expanded. In the field of public law where the Court has a discretion whether or not to make an order

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preventing conduct by a public officer or governmental authority that has been shown to be *ultra vires* or unlawful, the question of what qualifications a plaintiff must show before the Court will entertain his application for a declaratory order or judgment seems to me to be one of practice rather than of jurisdiction. The recent trend in England, after the passing of the English Crown Proceedings Act 1947, seems to be that the rule of *locus standi* must be developed to meet the changing times. In broadening the requirements that must be met to give the plaintiff a standing in a public interest litigation the High Court must always bear in mind that under the Federal Constitution of Malaysia, the judicial power is vested in the Judge. And judicial power included judicial control or review of governmental/executive actions except when the jurisdiction of the High Court is expressly excluded by the Constitution (see *Dato Menteri Othman bin Baginda & Anor. v. Dato Ombi Syed Alwi bin Syed Idrus* [1981] 1 MLJ 29). Judicial review is available only as a remedy for conduct of a public officer, executive or person exercising statutory or governmental power which is *ultra vires*, void or unlawful. It is available only in public law (see *Ganda Oil Industries Sdn. Bhd. v. The Kuala Lumpur Commodity Exchange* (Supreme Court Civil Appeal No. 266/85) (unreported)). In a judicial review the Court is not concerned with the reasonableness of the governmental or statutory order but only with its legality (see *Chief Constable of North Wales Police v. Evans* [1982] 3 All ER 141). Similar view was expressed by Lord Diplock in the *Federation of Self-Employed* case (*supra*) at p. 644F in the following words:

> It is not, in my view, a sufficient answer to say that judicial review of the actions of officers of departments of central government is unnecessary because they are accountable to Parliament for the way in which they carry out their functions. They are accountable to Parliament for what they do so far as regards efficiency and policy and of that Parliament is the only Judge: they are responsible to a Court of justice for the lawfulness of what they do, and of that the Court is the only Judge.

Proceeding By Way Of A Relator Action

The learned Attorney-General on behalf of the Government of Malaysia takes the point that the learned Judge erred in law when he failed to hold that the respondent should have resorted to "relator" proceedings in the circumstances of the case and he erred further when he held in effect that the law pertaining to "relator" proceedings is archaic and impracticable in Malaysia. In support of this contention the learned attorney-General cited a passage in the judgment of Lord Wilberforce in the case of *Gouriet v. Union of Post Office Workers* [1978] AC 435 at p. 477 which reads:

> A relator action - a type of action which has existed from the earliest times-is one in which the Attorney-General, on the relation of individuals (who may include local authorities or companies) brings an action to assert a public right. It can properly be said to be a fundamental principle of English law that private rights can be asserted by individuals, but that public rights can only be asserted by the Attorney-General as representing the public are vested in the Crown, and the Attorney-General enforces them as an officer of the Crown. And just as the Attorney-General has in general no power to interfere with the assertion of private rights, so in general no private person has the right of representing the public in assertion of public rights. If he tries to do so his action can be struck out.

At first sight, this seems an attractive submission until one reads the explanations given by Lord Diplock and Lord Roskill in *IRC v. Federation of Self-Employed* (*supra*) on the *Gouriet* case. At pp. 638-39 Lord Diplock said:

> As respects the claim for a declaration considerable reliance was placed upon the recent decision of this House in *Gouriet v. Union of Post Officer Workers* [1977] 3 All ER 70 and [1978] AC 435, which held that a private citizen, except as relator in an action brought by

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> the Attorney-General, had no *locus standi* in private law as plaintiff in a civil action to obtain either an injunction to restrain another private citizen (in case of a trade union) from committing a public wrong by breaking the criminal law or a declaration that his conduct is unlawful unless the plaintiff can show that some legal or equitable right of his own has been infringed or that he will sustain some special damage over and above that suffered by the general public. This decision is, in my view, irrelevant to any question that your Lordships have to decide today. The defendant trade union in deciding to industrial action was not exercising any governmental powers; it was acting as a private citizen and could only be sued as such in a civil action under private law. It was not amenable to any remedy in public law. Lord Wilberforce and I were at pains to draw this distinction.

After referring to *Gouriet* case, an authority much relied upon by the learned Lord Advocate on behalf of the appellants IRC in support of his contentions regarding the circumstances in which declarations might be granted Lord Roskill observed at pp. 657-58:

> But *Gouriet's* case was a relator action and was not concerned with prerogative orders or judicial review, and the relevant observations of your Lordships must be read in the light of that fact and of the subsequent enactment of O. 53 (of the English Rules of the Supreme Court).

In my opinion, *Gouriet* case presented the House of Lords with an opportunity to clarify the role of private citizen in the enforcement of the criminal law. The House replied that the enforcement of the criminal law in England by way of injunction in a civil suit is an altogether exceptional process, to be used with caution and permitted only for special reasons, and available only to the Attorney-General. In my opinion, *Gouriet* case was concerned with private law (law which regulates men's dealings with their fellow men as private citizens) whereas here, in this instant appeal, we are dealing with public law (law which regulates the exercise of government in their broadest sense). This distinction is relevant and necessary and is pointed out by Lord Diplock in *Gouriets* case at p. 500C in the following words:

> The words italicised in the last paragraph are important words for they draw attention to the fact that the jurisdiction of a civil Court to grant remedies in private law is confined to the grant of remedies to litigants whose right in private law have been infringed or are threatened with infringement. To extend that jurisdiction to the grant of remedies for unlawful conduct which does not infringe any rights of the plaintiff in private law, is to move out of the field of private into that of public law with which analogies may be deceptive and where different principles apply.

It is plain that *Gouriet* case is clearly distinguishable from the instant case in that firstly, the respondent instituted this proceeding in his capacity as an elected Member of Parliament, whose duty is not confined to the electorates of Tanjung, Penang but also to the Dewan Rakyat and the peoples of Malaysia. Secondly, the respondent did not bring this suit to enforce the criminal law and lastly, the action appeared to have been brought primarily to test the legality of the proposed government's intention to award the North-South Highway project contract to UEM. In short, it was a public interest suit calling for judicial review on the legality of the proposed executive action. As principal legal adviser to the Cabinet and/or Minister of the Government of Malaysia under Art. 145(2) of the Federal Constitution no one would have expected the learned Attorney-General to give his consent to the respondent to institute this proceedings in a Court of law. On the contrary, I would consider it as a dereliction of his constitutional duty if the learned Attorney-General does not defend the suit vigorously. In my opinion, a "Relator" action has no application in a public interest litigation brought to test the legality of governmental act in a Court of law.

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It has been adumbrated that the test formulated by Buckley J in *Boyce v. Paddington Borough Council* [1903] 1 Ch 109 should be the proper test to be applied when a member of the public or a citizen sues the public authority without joining the Attorney-General. At p. 114 Buckley J said:

> A plaintiff can sue without joining the Attorney-General in 2 cases: first, where the interference with the public right is such as that some private right of his is at the same time interfered with (e.g., where the obstruction is so placed in a highway that the owner of premises abutting upon the highway is specially affected by reason that the obstruction interferes with his private right to access from and to his premises to and from the highway; and secondly, where no private right is interfered with, but the plaintiff, in respect of his public right, suffers special damage peculiar to himself from the interference with the public right.

I am unable to agree with this submission for the following reasons:

(a) this test was laid down by Buckley J in 1902 long before the passing of the English Crown Proceedings Act 1947;

(b) Lord Diplock stated that "Any judicial statements on matters of public law if made before 1950 are likely to be a misleading guide to what the law is today (see *Federation of Self-Employed* case at p. 640A);

(c) *Boyce* case had nothing to do with judicial review;

(d) adoption of this test would, in my respectful opinion, be a retrograde step and would have the indirect effect of placing governmental actions outside the purview of judicial control and therefore above the law; and

(e) acceptance of the *Boyce* test would result in implied overruling *Lim Cho Hock v. Government of Perak & Ors.* [1980] 2 MLJ 148 and *Tan Sri Hj. Othman Saat* case (*supra*), the former being a decision of Abdoolcader J (as he then was) and the latter that of the Federal Court. The Supreme Court (Lee Hun Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) seemed to have accepted the correctness of these authorities and followed them when they held that the respondent had the *locus standi* to bring this suit and I am in agreement with their opinions. In my opinion, the test of *locus standi* in a public interest litigations, is as laid down by the Federal Court in the *Tan Sri Hj. Othman Saat* case, *viz.* whether the plaintiff has a real interest in the subject-matter of the suit.

Was the Judgment on 25 August 1987 made Per Incuriam

It is submitted by the learned Attorney-General that the judgment of the Supreme Court (Lee Hum Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) dated 25 August 1987 was made *per incuriam*. The *per incuriam* doctrine has been explained and restated by Sir John Donaldson MR in a recent case of *Duke v. Reliance Systems Ltd.* [1987] 2 WLR 1125 in the following words:

> I have always understood that the doctrine of *per incuriam* only applies where another division of this Court has reached a decision in the absence of knowledge of a decision binding upon it or a statute, and that in either case it has to be shown that, had the Court had this material, it must have reached a contrary decision. That is *per incuriam*. I do not understand the doctrine to extend to a case where, if different arguments had been placed before it, or if different material had been placed before it, it might have reached a different conclusion. That appears to me to be the position at which we have arrived today.

In my opinion, the submission based on *per incuriam* is misconceived in that when the

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Supreme Court delivered the judgment on 25 August 1987 it was made after hearing arguments from the learned Senior Federal Counsel representing the Government of Malaysia, learned Counsel acting for UEM and learned Counsel appearing for Lim Kit Siang. It seems to me that the Supreme Court had considered all the arguments, authorities and statutes relevant to the case and the learned Attorney-General is unable to point to any particular ordinance or binding authority which had inadvertently been disregarded by the Supreme Court except to show that he disagreed with the interpretation of the scope of s. 29 of the Government Proceedings Act 1956 given to it by the learned Judges of the Supreme Court and the decision of the Supreme Court that on the facts of this case the respondent clearly had the *locus standi* to bring this suit. In my opinion, the learned Attorney-General therefore fails to bring his case within the *per incuriam* rule as stated by Sir John Donaldson MR in the above mentioned case.

Was The Judgment Of 25 August 1987 Binding On The High Court

The next legal point taken by the learned Attorney-General and learned Counsel for UEM is that the interlocutory injunction granted by the Supreme Court (Lee Hun Hoe CJ Borneo, Wan Suleiman, Wan Hamzah SCJJ) on 25 August 1987 was by nature provisional only and that such an Order may be revised or discharged by the Judge who made it or by another Judge of the High Court in the light of subsequent evidence and argument. As authority for this proposition the case of *WEA Records Ltd. v. Visions Channel 4 Ltd. & Ors.* [1983] 2 All ER 589 is relied upon.

For the respondent it was argued by learned Counsel that the interlocutory injunction was granted by the Supreme Court after hearing arguments from learned Counsel representing the respondent, the Government of Malaysia and UEM. Although the learned Attorney-General seems to complain that very short time was given to his chambers to prepare the case when the appeal came up for hearing on 25 August 1987 yet the record of appeal does not disclose any application having been made to the Supreme Court for a postponement. Unlike *WEA Records* case learned Counsel for the respondent has submitted that the interlocutory injunction of 25 August 1987 was granted by the Supreme Court and not by a Judge of the High Court. Being an interlocutory injunction, learned Counsel concedes that it is in a sense a provisional order and may be set aside or varied by a Judge of the High Court but only if the aggrieved party can prove (a) a change of circumstances or new facts having come to light after 25 August 1987 and/or (b) suppression of material facts when applying for the interlocutory injunction before the supreme Court on 25 August 1987.

I agree with the contention of learned Counsel for the respondent that the interlocutory injunction granted by the Supreme Court on 25 August 1987 can only be discharged or varied under the 2 circumstances set out in (a) and (b) above. In my opinion, the interlocutory injunction was granted by the Supreme Court in the exercise of its original discretionary jurisdiction and is not therefore subject to review by the High Court except under the 2 circumstances above mentioned. It is in that context that the words "With liberty to apply to the Court below" which are inserted by the Supreme Court, is to be understood. The phrase "With liberty to apply" in my opinion, does not entitle an aggrieved party to apply to a Judge of the High Court to review the original discretion exercised by the Supreme Court. To allow this is to place the Judge in an invidious position. In this respect, the facts of this case are distinguishable from *WEA Records* case.

Now, when UEM applied to the High Court to discharge the interlocutory injunction of 25 August 1987 they did not appear to rely on a change of circumstances or fresh facts which had come to light after 25 August 1987 which would justify the learned Judge reviewing

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the matter in the light of these new facts. The learned Judge was right not to reopen the case in the absence of fresh facts. Dealing with the complaint of suppression of material facts the learned Judge rejected this allegation and I do not disagree with him on this finding. In my opinion, the learned Judge applied the law correctly when he dismissed the application of UEM to discharge the interlocutory injunction 25 August 1987.

No Reasonable Cause Of Action Against UEM

It is the submission of learned Counsel for UEM that on the facts as pleaded in the statement of claim the respondent has no reasonable cause of action against UEM. Learned Counsel seems to forget that this suit brought by the respondent against UEM and the Government of Malaysia is for a declaratory judgment under O. 15 r. 16 of the Rules of the High Court 1980 which provides that "No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether or not any consequential relief is or could be claimed." O. 25 r. 5 of the English Rules of the Supreme Court 1883 is the forerunner of O. 15 r. 6. The validity of O. 25 r. 5 was unsuccessfully attacked in *Guaranty Trust Co. of New York v. Hannay* [1915] 2 KB 536 and *Hannay's* case may be taken as establishing the proposition that the jurisdiction to make a declaration under this Rule is not confined to cases in which the plaintiff has a complete and subsisting cause of action apart from the Rule. In my opinion, the only requirement seems to be that there must be a justiciable issue. In *Lim Cho Hock* case (*supra*) Abdoolcader J (as he then was) said that the "Court's power to make declaratory judgments is confined to matters justiciable in the Courts". In my opinion, the contention of learned Counsel for UEM is misconceived.

In my opinion, UEM is a necessary party to this proceedings because the Courts have always recognized that persons interested who are or may be indirectly prejudiced by a declaration made by the Courts in their absence, should be made parties to the suit (except in very special circumstances) so that UEM may be given the opportunity to be heard in its defence.

Section 29 Of The Government Proceedings Ordinance 1956

It is the submission of the learned Attorney-General that having regard to the clear provision of s. 29(1)(a) of the Government Proceedings Act 1956 Act (hereinafter referred to as the 1956 Act) that no injunction shall be granted against the Government in any civil proceedings by or against the Government, the interlocutory injunction granted by the Supreme Court (Lee Hun Hoe CJ Borneo, Wan suleiman and Wan Hamzah SCJJ) on 25 August 1987 although addressed to UEM was indirectly directed at the Government of Malaysia. The learned Attorney-General argues that what cannot be done directly cannot be done indirectly. The Penang High Court seems to take the view that an interlocutory injunction directed against UEM would be caught by s. 29(1)(a) of the 1956 Act and for this reason, the learned Judge dismissed the *ex parte* application of the respondent. On appeal the Supreme Court disagreed with the construction put to s. 29(1)(a) by the Penang High Court when it decided to grant the interlocutory injunction to the respondent on 25 August 1987. The learned Attorney-General appears to be asking this Court, albeit differently constituted and enlarged, to review and reverse the interpretation of s. 29(1)(a) of the 1956 Act made by the Supreme Court after arguments. For the reasons I have already given above, it is my considered opinion that this Court has no jurisdiction to do what the learned Attorney-General asks. The learned Judge was right in holding that he was bound by the judgment of the Supreme Court on this particular point and I agree with his conclusion.

Conclusion

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In my opinion, these appeals are an attempt to persuade this Court, albeit differently constituted and enlarged, to review and reverse the decision made by the Supreme Court (Lee Hum Hoe CJ Borneo, Wan Suleiman and Wan Hamzah SCJJ) on 25 August 1987 after hearing arguments from the learned Senior Federal Counsel representing the Attorney-General, learned Counsel for UEM and the respondent. It is my considered opinion that the jurisdiction of the Supreme Court, whether it sits in a panel of 3, 5 or other odd numbers, is vested with the same jurisdiction and that this Court, has no jurisdiction, express or implied, to review, discharge or vary the judgment of the Supreme Court made on 25 August 1987. In my opinion, the jurisdiction of the supreme Court to review, discharge or vary is contained in s. 44(3) of the Courts of Judicature Act 1964 when it sits to hear an appeal involving an interim order made by a Judge of the Supreme Court under s. 44(1) of the 1964 Act. In my opinion, the power of review is confined to that limited circumstances only. Since the learned Attorney-General is unable to bring his case within the provision of s. 44(3) of the Courts of Judicature Act 1964 this Court should not accede to the request. A *fortiori*, when the Supreme Court was exercising its original discretion entrusted to them by law in granting the interlocutory injunction to the respondent against UEM. For the above reasons, I would dismiss both the appeals.

E. Abdoolcader SCJ (dissenting):

In delivering oral judgment *ex tempore* at the conclusion of argument giving reasons for my decision to dismiss these two joint appeals with costs, I declared at the inception that I was entering a vigorous dissent. It now only remains for me to register and reflect in this judgment the force of my dissent revolving primarily around the crucial question of law as to standing to sue in public law litigation and endeavor in doing so to translate the sting of the thing into language as mild as I can mobilise and muster without mincing words.

First things, first, however, and so to briefly epitomize the factual background of this matter. The respondent, Lim Kit Siang, who assumes a title to sue in several capacities which I will have to advert to presently instituted these proceedings by way of writ against United Engineers (M) Berhad ('UEM') and the Government of Malaysia and two ministers, the Minister of Finance and the Minister of Works, for a declaration that the letter of intent given in December 1986 by the Government in favour of UEM for the privatisation of the North-South Highway is null and void and of no consequence on the basis of allegations of impropriety and misconduct in the award of the tender for this project and statutory corrupt practice which it is not necessary to specify in detail for the purposes of this judgment, and an injunction to restrain UEM from signing the contract for the project with any agent or servant of the Government.

On filing the action in the High Court at Penang and before service of the writ on any of the defendants the respondent applied by *ex parte* summons for an interlocutory injunction against UEM to restrain it from signing the proposed contract pursuant to the letter of intent pending the final determination of the suit. The application was heard as an opposed *ex parte* summons with the State Legal Adviser, Penang, appearing on behalf of the two ministers and the Government before Edgar Joseph Jr. J, who dismissed the application. The respondent appealed to the Supreme Court and although none of the defendants had entered appearance they were served with the record of appeal and were represented by Counsel at the hearing of the appeal. The Supreme Court gave an oral judgment after hearing submissions on 25 August 1987 allowing the appeal and granting the interlocutory injunction sought with costs in the cause and liberty to apply to the Court below, and further directing an early trial of the action before another Judge.

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UEM then applied to the High Court to have the injunction granted by the Supreme Court set aside and the suit struck out on the ground that is discloses no reasonable cause of action, is frivolous or vexatious or is otherwise an abuse of the process of the Court, and alternatively in the exercise of its inherent jurisdiction on the ground that the action is not maintainable in law or that the respondent has no *locus standi*. The two ministers also jointly applied by summons to have the suit against them struck out on similar grounds and in addition invoked O. 15 r. 6(2) of the Rules of the High Court 1980 for their dismissal as parties to the suit by the reason of improper or unnecessary joinder for want of any reasonable cause of action against them. The Government as well took out a summons on grounds identical to those of UEM. V.C. George J heard all these three applications and in a reserved judgment delivered on 5 October 1987 dismissed the application by UEM and the Government with costs but allowed that of the two ministers, and holding that they were not necessary parties to the action, struck them out as defendants from the suit with costs. UEM and the Government promptly appealed to the Supreme Court against the dismissal of their respective applications in these two appeals which were heard together on 14 and 15 January 1988.

I should perhaps observe that in the course of argument before us I drew attention to three recent cases - *Regina v. Her Majesty's Treasury, ex parte Smedley* [1985] 1 QB 657, *Gillick v. West Norfolk and Wisbech Area Health Authority & Anor.* [1986] 1 AC 112 and *Regina v. Secretary of State for the Home Department & Anor., ex parte Herbage* [1987] 1 QB 872 which are in my view highly pertinent to the issues raised in this matter, but the all-round reaction appeared to be one of complete lack of acquaintance with these decisions which I shall have to advert to later, but I only mention this at this stage as my reference to these decisions was only met by the appellants in answer to me with purported reliance, as an all purpose smoke-screen to deny their relevance of application here, on the provisions of O. 53 of the English Rules of the Supreme Court 1965 as amended in 1977 and now given statutory force by s. 31 of the English Supreme Court Act 1981, in view of the changes effected by the English O. 53 in its present form.

It is therefore necessary to briefly deal with O. 53 of the English Rules of the Supreme Court. The English O. 53 as it now stands just provides for a modern system of judicial review and is designed to obliterate the need for distinguishing between the various alterative forms of prerogative relief and other powers. It is only a procedural provision for administrative law remedies enabling an omnibus application for judicial review which empowers the Court to give the requisite relief according to the circumstances of the case by way of any of the prerogative orders as well as declaration, injunction and damages, and in the process provides for the standardisation of the different requirements of standing for the several remedies by enacting a general formula of sufficient interest in the matter to which the application for judicial review relates.

The pivotal issue on which the appeals were actually argued and turned is that of *locus standi* or standing to sue. The respondent, like his English counterpart in *ex parte Smedley*, is a man of many parts and perhaps of even more. He launched these proceedings in his capacity as specified in the statement of claim as a Member of Parliament, the Leader of the Opposition in the House of Representatives, a State Assemblyman, a taxpayer, a motorist and a frequent user of highways and roads in the country.

I have given judgment in two cases setting out the relevant precepts relating to standing - in the High Court in *Lim Cho Hock v. Government of the State of Perak & 2 Ors.* [1980] 2 MLJ 148 and in the Federal Court in *Tan Sri Haji Othman Saat v. Mohamed bin Ismail* [1982] 2 MLJ 177, and I see no reason to depart from the principles expounded in these two

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decisions. The Federal Court approved *Lim Cho Hock* in *Othman Saat* and endorsed (at p. 179) the concept of liberalizing the scope of individual standing, and these two judgments must be read in the light of the continuing development of the doctrine of *locus standi* here and in other jurisdictions. I alluded to the necessity of keeping in tune with the times in the development of the approach to the question of *locus standi* on *Othman Saat* (at p. 179) to this effect: 'Even if the law's pace may be slower than society's march, what with increased and increasing civic-consciousness and appreciation of rights and fundamental values in the citizenry, it must nonetheless strive to be relevant if it is to perform its function of peaceful ordering of the relations between and among persons in society, and between and among persons and government at various levels.' Liberalization of standing has in varying degrees been proceeding or proposed in other common law jurisdictions as I have shown in these two judgments, and it would be a shame if we were to lag behind.

The imbroglio that has arisen in this matter is the result of the myopic obfuscation of the distinction between public law and private law cases. The appellants contend that the principle that is applicable is that laid down in *Gouriet v. Union of Post Office Workers* [1978] AC 435 and *Boyce v. Paddington Borough Council* [1903] 1 Ch 109 which I have dealt with in *Othman Saat*.

The English Courts no longer worry about *Gouriet*. It has been authoritatively distinguished by the House of Lords in *Regina v. Inland Revenue Commissioners, Ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1982] AC 617. The applicant in that case was a company formed to promote the interest of small business. Alleging that its constituents and other nonunionist were pursued without leniency for not paying their taxes, the applicant sought judicial review of a deal that Revenue had struck with printing industry unions whereby certain tax investigations would be dropped in return for union co-operation in securing an end to casual workers evading income tax by using fictitious names. The unions, it was said, were receiving preferential treatment, and *mandamus* and declaratory relief were sought. Lords Diplock, Scarman and Roskill (at pp. 638-639, 649 and 657-658 respectively) distinguished *Gouriet* on the basis that it concerned only private law. The House of Lords held that the Court of Appeal had been wrong, in an application for judicial review, to treat the question of *locus standi* as a threshold issue to be decided in isolation from the legal and factual context of the case; this is where the bifurcation into public law and private law aspects of litigation assumes vital significance in determining the issue. The general conclusion to be drawn from *National Federation* is that the majority thought that the issue of standing should usually be considered along with the merits, as it is now a matter for the Court's discretion - the graver the illegality, the less insistence on showing standing. The minority would abolish standing.

I referred in *Othman Saat* (at p. 179) to *Regina v. Horsham Justices, Ex parte Farquharson & Anor*. [1982] 2 WLR 430 where Lord Denning MR referred (at p. 446) to *National Federation* and Lord Diplock's assertion in that case (at p. 740) of the right of even a single public-spirited taxpayer to bring a matter to the attention of the Court to vindicate the rule of law and get lawful conduct stopped. *National Federation* was supplied in *Regina v. Felixstowe Justices, ex parte Leigh & Anor*. [1987] 1 QB 582 which held that a journalist, or possibly the press through him, as guardian of the public interest in open justice, had a sufficient interest to give him *locus standi* to apply for a declaration that the justices hearing the case were not entitled to withhold their names for security reasons.

Othman Saat was actually involved a private law element as the plaintiff's grievance there

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was the denial of his application for the land in question and its grant to the defendant who was the Menteri Besar of the State and other personages in the upper echelon of the administration. In *Lim Cho Hock* I accorded standing to the plaintiff who was a Member of Parliament, a member of the State Assembly and a ratepayer to impugn the appointment of the Menteri Besar of the State as President of the Ipoh Municipal council. In the *Blackburn* cases which I referred to in *Lim Cho Hock* and *Othman Saat*, standing was accorded to the applicant prior to the examination of the merits of the applications on the reasoning that unless the Court in its discretion gave him hearing, then no one would bring the matter to Court.

In *Fitzgerald v. Muldoon* [1976] 2 NZLR 615 which I referred to in *Lim Cho Hock* (at p. 150), standing was granted to an individual to challenge a general administrative order relating to the compulsory universal superannuation scheme merely because he was one of the million compulsory contributors. In *Regina v. Hereford Corporation, ex parte Harrower* [1970] 1 WLR 1424, the Court did not deny standing on a challenge by local business people as ratepayer, but not as electrical contractors, on a complaint that the local authority had not followed proper tendering procedures in letting out a contract for the installation of central heating.

Public-spirited citizens do not seem to have deluged the English Courts with applications for judicial review since National Federation, but there are some noteworthy decisions, *ex parte Smedley* is one of the few recent examples of a citizen's challenge. There, a taxpayer who sought relief by way of *certiorari* and declaration was given standing by the English Court of Appeal to challenge the Treasury's proposal to pay a large sum of money - in excess of £120 million - to subsidize the European Economic Communities' budget without seeking an Appropriation Act, and it did so on the basis that the grounds of challenge were serious, and, it seems, that the amount involved made the threatened illegality serious. The applicant was given standing to challenge the decision affecting spending of public funds on technical grounds which did not question the substance of the spending decision. In the High Court (The Times, 8 December 1984) Woolf J said that he 'would be surprised if a public-spirited citizen was prevented from coming before a Court to prevent an unconstitutional and unauthorised disposal by the government of funds.' In the Court of Appeal Sir John (now Lord) Donaldson MR said (at p. 664) that the applicant sought the assistance of the Court in his capacity as a British taxpayer and elector and (at p. 667) that he agreed with Woolf J, that he would be extremely surprised to find himself obliged to uphold the submission that the applicant had no sufficient interest and therefore no *locus standi*. It is, I think of some importance to refer to and quote in extension what Slade LJ had to say on the question of *locus standi* (at pp. 669-670):

> The speeches of their Lordships in *Regina v. Inland Revenue Commissioners, ex parte National Federation of Self-Employed and Small Business Ltd.* [1982] AC 617 well illustrate that there has been what Lord Roskill described at . 656G-H as a 'change in legal policy,' which has in recent years greatly relaxed the rules as to *locus standi*. Lord Diplock referred at p. 640C to a 'virtual abandonment' of the former restrictive rules as to the *locus standi* of persons seeking prerogative orders against authorities exercising governmental powers. If the Court had taken the view that Mr. Smedley's application was of a frivolous nature, the wide discretion given it by RSC, O. 53 would have enabled it to dispose of it appropriately. There has, however, been no suggestion that it is of this nature. It raises a serious question as to the powers of Her Majesty in Council to make an Order in Council in the form of the draft now before Parliament. The making of any such Order would be likely to be followed automatically by the expenditure by the government of substantial sums from the Consolidated

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> Fund in reliance on s. 2 of the European Communities Act 1972. I do not feel much doubt that Mr. Smedley, if only in his capacity as a taxpayer, has sufficient *locus standi* to raise this question by way of an application for judicial review; on the present state of the authorities, I cannot think that any such right of challenge belongs to the Attorney-General alone.

In *Gillick*, the House of Lords allowed a mother of five daughters under the age of 16 to challenge the legality of the government provision of contraceptive advice to females under 16. The mother's standing went unquestioned, although it was accepted that her daughters were unlikely to seek contraceptive advice without her consent. I do not see that the English O. 53 as enacted in its present form makes any distinctive difference to affect the position. It might well be asked what sufficient interest for the purposes of judicial review as enacted in the English O. 53 since 1977 the applicant in *ex parte Smedley* would have had apart from the other many millions of electors and taxpayers in challenging the proposed subsidy to the European Economic Communities' budget without Parliamentary approval, and so too in the case of Victoria Gillick who was given standing although the memorandum on family planning services issued by the Department of Health and Social Security would not in fact have affected her children.

In *Waddell v. Schreyer* [1981] 126 DLR (3d) 431, the British Columbia Supreme Court gave the plaintiff, who sought a declaration that certain orders-in-council were *ultra vires*, standing by virtue of his special interest as a Member of Parliament. An appeal to the British Columbia Court of Appeal was dismissed; [1983] 1 WWR 762, and leave to appeal to the Supreme Court of Canada was refused: [1983] 1 WWR lii. In *Finlay v. Minister of Finance of Canada* [1984] 1 FC 516, the Federal Court of Appeal of Canada allowed a citizen who was neither directly affected nor a taxpayer to challenge the validity of federal and provincial transfer payments under the Canada Assistance Plan. The decision has been upheld by the Supreme Court of *Canada sub nomine Finlay v. Canada* [1986] 2 SCR 607. The Supreme Court decided that the interest of the applicant was too remote or speculative to grant standing under the general requirement that the plaintiff must have a sufficient private or personal interest in the subject matter. The Court went on to hold, however, that in appropriate public law cases, as a matter of judicial discretion, standing might be given to a private individual notwithstanding the fact that a constitutional or Charter of Rights and Freedoms issue was not involved. The Court thus extended the principle laid down in *Thorson v. Attorney-General for Canada* [1975] 1 SCR 138, *Nova Scotia Board of Censors v. McNeil* [1976] 2 SCR 256 (both of which I dealt with in *Lim Cho Hock*) and *Minister of Justice for Canada v. Borowski* [1981] 2 SCR 575 - all three of which involved the requirements for standing in a constitutional case where a party has no direct interest - to the field of administrative law and, in the result, granted standing to Finlay to bring an action for a declaration to challenge the legality of federal cost-sharing arrangements.

The contention of the appellants is that in matters such as that before us it is only the Attorney-General himself moving *suo motu* or by the grant of a *fiat* for a relator action who has the right to challenge and can take action and no other. I would think it would be too much to expect process of this nature involving the ventilation of a public grievance to proceed only through this channel, given even the fortitude the incumbent of the office would presumably be endowed with, in view of the rebound where the complaint is against the Government itself and the Attorney-General is its legal adviser, as it would surely be expected that if the complaint merited action by the Attorney-General or by his *fiat* to a relator, he would himself in the first instance have had the cause of complaint aborted before its overt

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manifestation. For the Attorney-General to have to proceed himself or by reaction in such a case would only be a deplorable and intolerable reflection as in the normal course of events such a situation would and should never be allowed to arise, and so the question of a relator action must necessarily remain attractive as a theoretical possibility with no conceivable hope generally for practical purposes of advancing to concrete action beyond that. This appears to be the rationale in granting standing in such circumstances in other jurisdictions and perhaps explains why Slade LJ said in *ex parte Smedley* in the passage I have cited that he could not think that any such right of challenge belongs to the Attorney-General alone.

I am not therefore impressed that the road to relief in regard to public law issues can be travelled only with the permission of the Attorney-General. To deny *locus standi* in the instant proceedings would in my view be a retrograde step in the present stage of development of administrative law and a retreat into antiquity. The merits of the complaint are an entirely different matter, and we are not concerned with the personalities in the picture or whether it is a highway project or the construction of a causeway to the Moon that is involved. The principle that transcends every other consideration must *ex necessitate* be that of not closing the door to the ventilation of a genuine public grievance, and more particularly so where the disbursement of public funds is in issue, subject always of course to a judicial discretion to preclude the phantom busybody or ghostly intermeddler.

The effect of the denial of standing in such circumstances would be, and it has indeed been so suggested, that we will have to fold our arms and do nothing, in which event I would add we might also as well have to hang our heads in sorrow and perhaps even in mortification in not being able to at least entertain for consideration on its merits any legitimate complaint of a public grievance or alleged unconstitutional conduct. To take an instance: If a considerable sum of money is taken out by executive *fiat* from the Consolidated Fund without Parliamentary approval by way of a Supply Act for the implementation of a project, however laudable, the legality of such a move would then be incapable of being tested or challenged by a public spirited citizen or a taxpayer as in *ex parte Smedley* and *Finlay v. Canada*. The Courts must therefore be cautious in accepting any postulate that purports to narrow the rights of recourse to them and, in the present context, in constricting the concept of standing in public law litigation, and will have to be ready to sharpen their constitutional knives as and when the occasion demands.

The question of *locus standi*, which the notes of proceedings disclose was raised for the first time in the present proceedings by Mr. Zaid Ibrahim appearing for UEM in this matter in the course of the hearing of the appeal before the supreme Court on 25 August 1987 and pursued by Senior Federal Counsel appearing for the Government, appears to have been fully exposed in argument, as the Court in arriving at its decision in a short judgment owing to the urgency of the matter stated it had considered a number of authorities, both English and local, as to the question of *locus standi* and that it need only say that on the facts of this case the respondent clearly has *locus standi* to bring the instant suit. We are now met with the preposterous contention that this judgment of the Supreme Court is only *obiter* and made *per incuriam* just because it does not set out full reasons for its decision. The pronouncement on 25 August 1987 is a judgment of the Supreme Court which unequivocally made a decision on the points in issue before it including that of standing taken by the appellants themselves and crucial to the substratum and basis of the respondent's suit. Any view to the contrary as to the efficacy of that judgment would lay open the door to similar contentions in relation to decisions of this Court and indeed of other Courts as well in matters where brief oral judgments are delivered at the conclusion of argument.

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I must categorically state that the proposition advanced that what the Supreme Court said is *obiter* is wholly beyond intelligible comprehension, as the Court specifically decided the point of standing raised and put in issue affecting the very foundation of the suit instituted. And as to the decision being *per incuriam*, I would suggest that before any argument on this line is ever to be raised, it would be highly instructive to first refer to the latest observation in this regard by Sir John (now Lord) Donaldson MR in the English Court of Appeal in *Duke v. Reliance Systems Ltd.* [1987] 2 WLR 1225 (at p. 1228):

> I have always understood that the doctrine of *per incuriam* only applies where another division of this Court has reached a decision in the absence of knowledge of a decision binding upon it or a statute, and that in either case it has to be shown that, had the Court had this material, it **must** have reached a contrary decision. That is *per incuriam*. I do not understand the doctrine to extend to a case where, if different arguments had been placed before it or if different material had been placed before it, it **might** have reached a different conclusion. That appears to me to be the position at which we have arrived today.

'*Per incuriam*' is only Latin for 'through want of care' or 'through in advertence' or 'by mistake'. I have not been told or shown how or when or where any such forensic mishap occurred in the judgment of this Court delivered on 25 August 1987.

To reverse that decision of the Supreme Court on *locus standi* now would amount to no less than our sitting in judgment on another division of this Court and overruling its adjudication given only some four and a half months ago. The Supreme Court which can aptly be described and designated as the engine-room of the Constitution would as a result have the sanctity of its decisions set at stake. In *Lye Thai Sang & Anor. v. Faber Merlin (M) Sdn. Bhd. & Ors.* [1985] CLJ (Rep) 196, this Court held in a judgment delivered by Tan Sri Abdul Hamid CJ Malaya, that where an appeal has been heard and disposed of by the Supreme Court, the Court has no power to review the case, that is, to re-open, rehear and re-examine its decision for whatever purpose. It now becomes a matter of speculation whether that decision itself has been the subject of review by this Court as a result of the decision of the majority of this Bench in the instant appeals. I must point out that only a constitutional amendment can confer jurisdiction and effectuate the power of review by the Supreme Court of its own decisions.

V.C. George J, in consonance with the doctrine of *stare decisis* and judicial discipline was accordingly bound by the decision of the Supreme Court given on 25 August 1987, as he properly held, and, I would add, he also examined the position as to *locus standi* in law independently by extensive reference to authority and correctly came to the same conclusion.

To discard the decision of the Supreme Court given previously and so very recently in the same matter and on the same point and summarily dismiss it as the appellants would have us do would only inject alarming uncertainty into the law, with however the consoling thought but perhaps as an unintended consequence that just as the majority judgment in this matter has purported to reverse the decision of this Court given on 25 August 1987, so would it pave the way for yet another division of this Court to reconsider the question in issue in some other subsequent case perhaps in the not too distinct future and come to a different conclusion and restore the principle of law accepted in the decision reversed. The result of all this would well be, adapting my words in *Foo Loke Ying & Anor. v. Television Broadcasts Ltd. & Ors.* [1985] CLJ (Rep) 122 (at p. 128), to countenance in the realm of judicial precedent a free-for-all like the aftermath of an English football match. Well then did Francis Bacon have cause to muse as he did, and that too as far back as 1605: "It is of so much importance to a law, that it be certain, that without this, neither can it be just, 'for if the

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trumpet give an uncertain voice, who shall equip himself for war?' Similarly, if the law given an uncertain voice, who shall prepare himself to obey? Therefore, it is necessary that it warn before it strike."

I must touch on one other matter in this regard. Tan Sri Abdul Hamid CJ (Malaya), in delivering his judgment says that perhaps the time has come to review the decision of the Federal Court in *Othman Saat*, and that the Supreme Court is not bound by decisions of the Federal Court. I am not aware of nor do I subscribe to any such theory on the doctrine of *stare decisis* in our Court in relation to decisions of the Federal Court. The Supreme Court is but the Federal Court reconstituted under a different name with enhanced jurisdiction, and until a policy in relation to judicial precedent has been agreed, formulated and declared by the Judges of the Supreme Court as a collegiate body, as indeed the High Court of Australia has done in *Viro v. Regina* [1978] 141 CLR 88 and *Jones v. The Commonwealth* [1987] 61 ALJR 348 after appeals to the Privy Council ceased, I would have thought that the principles enunciated in *Young v. Bristol Aeroplane Company Limited* [1944] KB 718; [1946] ac 163 (at p. 169) would apply. As for *Othman Saat*, speaking for myself I can see no reason for any review of that decision of the Federal Court, and the call so made would appear to be all the more surprising as there has been no such suggestion by the appellants, and this would seem to echo the shades of the *Spycatcher* Case (*Attorney-General v. Guardian Newspapers Ltd. & Ors.* [1987] 1 WLR 1248) when the House of Lords in a 3-2 majority judgment affirming the decision of the Court of Appeal with an extended order went entirely outside the submissions made and widened the scope of the injunction granted by restricting publication of the proceedings pending before the supreme Court of New South Wales without any request for an order to this effect by the Attorney-General.

I now turn to the matter of a cause of action against the appellants. The question raised of the absence of any cause of action is in my view nothing more than a large red herring, perhaps covered with a thick white sauce, but in all its stark reality a large red herring nevertheless. The action instituted by the respondent is for a declaration under O. 15 r. 16 of the Rules of the High Court, and no cause of action is necessary in such a case. The reliance placed on s. 41 of the Specific Relief Act 1950 is wholly misconceived and misplaced. *Othman Saat* (at p. 178) has made it clear that s. 41 of that Act is not exhaustive of declaratory relief, and a declaration can be sought and made under **O. 15 r. 16** as in this case in which event it is not necessary to show a present cause of action.

The plaintiff may, in a case of tort, be asserting that he has title to some property, for example, in a slander of title case. In *Loudon v. Ryder (No. 2)* [1953] Ch 423, neither damages nor an injunction could be awarded, for the defendant lacked malice, but a declaration of the plaintiff's title was made since the defendant was persisting in his false assertions. In short, the plaintiff need not have a cause of action. The reasoning in this decision was approved in *RJ Reuter Co. Ltd. v. Mulhens* [1954] Ch 1950 and *Kingdom of Spain v. Christie, Manson & Woods Ltd.* [1986] 1 WLR 1120 (at p. 1127-1128).

As *Dyson v. Attorney-General* [1911] 1 KB 410 said that O. 25 r. 5 (which was the precursor of O. 15 r. 16) could be used even where no consequential relief could be granted, it impliedly ruled that it is permissible to sue for a declaration in the absence of a cause of action. This was expressly stated to be the position in *Guaranty Trust company of New York v. Hannay & Company* [1915] 2 KB 536 which held that the Court has power to make a declaration at the instance of a plaintiff though he has no cause of action against the defendant. In *Rediffusion (HongKong) Ltd. v. Attorney-General of Hong Kong* [1970] AC 1136, the Privy Council summed up the present position (at p. 1167) as follows:

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> There may be circumstances under which a person may have the right to go to a Court for a declaration (whether or not he seeks other relief) without being able to or having to show that he has a cause of action apart from his claim for a declaration. His application will not be defeated because he applies merely for a declaratory judgment or order. His application for a declaration of his right is not to be refused merely because he cannot establish a legal cause of action: *Guaranty Trust Company of New York v. Hannay & Co.* [1915] 2 KB 536. As Banker LJ said in that case there would be the limitation that the relief claimed must be something which it would not be unlawful or unconstitutional or inequitable for the Court to grant or contrary to the accepted principles upon which the Court exercises its jurisdiction.

I would also observe that I am unable to see the relevance of s. 6 of the Specific Relief act raised by the Attorney-General in argument. That provision prohibits the granting of specific relief for the mere purpose of enforcing a penal law, but no such question arises here. The point taken, that it is not for the respondent to arrogate to himself the matter of alleging criminal misconduct and that this is a matter solely for the Attorney-General as the Public Prosecutor, involves the fallacy of *petitio principii* as the primary issue is that of standing and not the consideration of the substantive question involving the relevance and merits of the allegations. The respondent is not asking in these proceedings for a *mandamus* or a mandatory injunction against the Attorney-General as Public Prosecutor to take criminal action in the matter.

I find equally irrelevant the Attorney-General's reliance on s. 7 of the Government Proceedings Ordinance 1956 which provides for savings of acts done in exercise of public duties. I will not set out that section *in extenso* to obviate prolixity, and it will suffice for me to say that I cannot see how that provision can help, as all it does is to preclude proceedings against the Government on account of anything done or omitted or refused to be done by the Government or any public officer in 'exercise of the public duties' of the Government, with the expression which I have put in quotes defined in sub-section (2) of that section to include para. (a) thereof which is the only relevant part in the present context and which reads: 'the constructing, maintenance, diversion and abandonment of railways, roads, bridle-paths or bridges'. This must necessarily mean that the Government is rendered immune from action in the execution of any such works by reason of any loss or damage suffered thereby by any person as a result of, for instance, the diversion or construction of a highway or road affecting his business or residence or otherwise with economic or other consequences. Sub-section (3) substantiates this position as it specifically permits an action for damages or compensation arising out of negligence or trespass in the execution of any such works. Section 7 of the Ordinance cannot in my view conceivably appertain to a complaint of the nature made in the present proceedings involving a challenge to a decision affecting the expenditure of public funds in relating to a project for the construction of a highway on the modus of its implementation which does not question the substance of the expenditure or the execution of the project itself. The respondent's action does not accordingly in any way affect the exercise of the public duties of the Government within the purview of s. 7 of the Ordinance.

I advert now to the interlocutory injunction granted against UEM. It is argued that no injunction can issue against the Government by virtue of the provisions of s. 29 of the Government Proceedings Ordinance and so the issue of an injunction against UEM in effect amounts to a devious device to circumvent that statutory prohibition. In the course of argument on this issue, I raised a query in relation to the provisions of s. 29, and when I referred in this regard to *ex parte Herbage*, this decision seemed to be about as familiar generally as the identity of the Unknown Warrior. The effect of s. 29, briefly put, is to debar the grant of an injunction against the Government or its officers in any civil proceedings by or against the Government. The term 'civil proceedings' is defined in s. 2(2) of the Ordinance

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to mean any proceeding whatsoever of a civil nature before a Court and includes proceedings for the recovery of fines and penalties and an application at any stage of a proceeding, but does not include proceedings under Chapter VIII of the Specific Relief Act 1950, **or such proceedings as would in England be brought on the Crown side of the Queen's Bench Division**. In England all the remedies for the infringement of rights protected by public law including declarations and injunctions must now be applied for by way of an application for judicial review under the English O. 53 (*O'Reilly v. Mackman* [1983] 2 AC 237), and this is brought on the Crown side of the Queen's Bench Division. The requisite provisions in the Ordinance I have referred to reproduce textually *totidem verbis* the equipollent provisions in the British Crown Proceedings Act 1947, namely, s. 21 and 38(2) thereof.

In *ex parte Herbage*, applicant was remanded in custody awaiting his extradition to the United States of America. He complained that he was being detained under inhumane conditions and he applied for judicial review and either an order of *mandamus* or a mandatory injunction directed against the Secretary of State and the prison governor in terms that would ensure that he was detained under humane conditions and not in solitary confinement. On the applicant seeking an interim injunction directing the Secretary of State and the prison governor to take all necessary steps to ensure that he was granted the same opportunities of association with other prisoners as were accorded to prisoners on remand, it was held that although s. 21(2) of the Crown Proceedings Act had been construed as prohibiting the grant of an injunction against an officer of the Crown in civil proceedings, the subsection was not applicable to proceedings on the Crown side of the Queen's Bench Division and did not affect the jurisdiction of the Court to grant prerogative orders against officers of the Crown, and as the provisions of the English O. 53 since reinforced by s. 31 of the English Supreme Court Act 1981 gave the Court power to grant injunctive and interim relief in proceedings for judicial review, the Court now had jurisdiction to grant an interim injunction against an officer of the Crown on an application for judicial review.

The only answer that could be advanced to the point I raised in this regard with reference to the relevant provisions of the Government Proceedings Ordinance and *ex parte Herbage* was that this case did not apply in view of the English O. 53 and that the exception in the definition of 'civil proceedings in s. 2(2) of the Ordinance referred to the position as it stood in 1956 when the Ordinance was enacted and was not affected by the changes brought about to the English O. 53 in 1977. It is therefore necessary to examine the substance or the lack of it in this proposition.

A statute is to be treated as always speaking. In its application on any date, its language, though necessarily embedded in its own time, is nevertheless to be construed in accordance with the need to treat it as current law. The formula of exclusion from the definition of 'civil proceedings' in s. 2(2) of the Ordinance of 'such proceedings **as would in England be brought** on the Crown side of the Queen's Bench Division' clearly shows in my view that it is intended to develop in meaning with evolving circumstances and is accordingly what may be termed an on-going statutory provision unlike one that is intended to be of unchanging effect or a fixed-time provision. The general presumption is that the legislature intends the Courts to apply to an ongoing statute a construction that continuously updates its wording to allow for changes since the statute was initially framed. The assumption that is adopted by the Courts is summarised in the expression an Act is deemed to be always speaking', that is to say, words in an Act are to be interpreted in accordance with their current meaning.

This approach is of relatively recent origin, as previously statues were generally construed in accordance with their natural meaning as at the date of their enactment. This rule was

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ossified in the maxim '*Contemporanea expositio est optima et fortissima in lege*' (the best and surest mode of construing an instrument is to read it in the sense which would have been applied when it was drawn up). It is clear now, however, that the operation of this rule in its fullest extent has been abandoned except perhaps in the construction of ambiguous language used in very old statutes where the law itself may have had a rather different meaning; *Campbell College, Belfast (Governors) v. Commissioner of Valuation for Northern Ireland* [1964] 1 WLR 912 (at p. 941 per Lord Upjohn). In considering a modern statute *'contemporanea expositio'* is of no value, and the Courts have refused to apply it to statutes passed within the last hundred years (*Trustees of Clyde Navigation v. Laird* [1883] 8 AC 658 (at p. 673; *Assheton Smith v. Owen* [1906] 1 Ch 179 (at p. 213)). It follows that legal references in an enactment must be updated to allow for change, and instances of this are *PoleCarew v. Craddock* [1920] 3 KB 109 where 'tax' in a pre-income tax enactment was held to include income tax, and *Attorney-General v. The Edison Telephone Company of London* [1880] 6 QBD 244 which held a telephone to be a 'telegraph' within the meaning of the Telegraphs Act 1863 and 1869, although the telephone was not invented or contemplated in 1869.

It would therefore appear that on the wording of the relevant provisions in the Government Proceedings Ordinance and the exclusion from the provisions precluding injunctive relief against the Government or its officers of such proceedings as would in England be brought on the Crown side of the Queen's Bench Division and the current position in England in that respect in relation to proceedings in public law litigation, an injunction in the instant proceedings against the Government is not precluded by the provisions of s. 29 of the Ordinance.

Even if, however, s. 29 of the Ordinance is effective to prohibit an injunction against the Government or any of its officers, and I have come to the conclusion that it is not in the light of the statutory provisions I have adumbrated, I can see no impediment to the granting of an interlocutory injunction against UEM in this case. The inability to proceed against the Government, if at all, does not of necessity *per se* preclude the grant of injunctive relief against UEM as the transaction sought to be impugned is synallagmatic in nature and not unilateral, and the affidavits disclose contentions as to the solvency of UEM and other matters as well involving it in respect of which the High Court has found they were in fact serious questions to be tried.

Anent the matter of the interlocutory injunction granted against UEM, the Attorney-General also seeks to rely on the provisions of s. 54(d) and (k) of the Specific Relief act which provide respectively that an injunction cannot be granted to interfere with the public duties of any Government in Malaysia, or with the sovereign acts of a foreign Government (para. (d)), and where the applicant has no personal interest in the matter (para. (k)). I cannot see how they apply to affect the position in the matter before us. There is no question of any interference with the public duties of the Government as what is sought is to question the propriety of the transaction between the Government and UEM involving the expenditure of public moneys on the basis of certain allegations raised in respect thereto; the respondent does not seek to question the substance of the spending decision or the propriety of the North-South Highway project itself. In any event, whether or not there can conceivably be any question of interference with the public duties of the Government is a matter for determination after consideration of the merits at the hearing, and these proceedings have not as yet reached that stage. As for para. (k), the question of whether the respondent has any personal interest or not in the matter must depend on the postulate of standing and I need not belabor this point as I have dealt with it at some length, and if the respondent can have standing to

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institute these proceedings as a public-spirited citizen, Leader of the Opposition, Member of Parliament and taxpayer, then he must necessarily and certainly have a personal interest in the matter in consequence on that basis.

And quite apart from all this, I would point that s. 54 of the Specific Relief Act comes under Chapter X of the Act dealing with perpetual injunctions, and s. 51 of the Act which comes under Chapter IX and refers to injunctions generally draws a distinction between temporary injunctions and perpetual injunctions, specifically enacting that a perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit. The injunction sought and granted in this case was interlocutory pending the final determination of the suit.

V.C. George J, in the High Court carefully and meticulously examined in a well-considered and logically explicit judgment all the points raised and in issue before refusing to discharge the interlocutory injunction granted by the Supreme Court on 25 August 1987. It has been said time and again that the discretion whether or not to grant an interlocutory injunction is vested at first instance and not in the appellate Court whose function initially is one of review only, and it will not overrule the decision of the Judge at first instance unless, broadly speaking, he has made an error of law or misconceived the facts, and except in those circumstances it must defer to the Judge's exercise of his discretion and must not interfere with it merely upon the ground that the members of the appellate Court would have exercised the discretion differently, and I would refer to the judgment of the Federal Court in this regard is *S & F International Limited v. Trans-Con Engineering Sdn. Bhd.* [1985] 1 MLJ 62 (at p. 64). I can see no error of any kind in the judgment of V.C. George J warranting interference by us.

In the premises and for the reasons I have discussed, I said at the conclusion of argument I would dismiss these appeals with costs.

One redeeming feature in this matter is that each party was ordered to bear its own costs here and below when the appeals were allowed as a result of the judgment of the majority of this Bench. This at least shows in relation to the issue of *locus standi* that the respondent was not all that wrong in purporting to assume the right in the capacities he specifies to institute these proceedings.

As a postlude, I would add this. If this judgment reads in *toto aut in paribus* like an indictment, let me immediately say it is meant to-against the doctrine of retrogression in the field of public law litigation in this age and at this stage of its evolution.

It might not perhaps be inapposite to close by referring to the dissent of Khanna J, in the Supreme Court of India in the famous *Habeas Corpus* Case (*Additional District Magistrate, Jabalpur v. Shivakant Shukla* AIR [1976] SC 1207) when he concluded his judgment (at p. 1277) with these words:

> As observed by Chief Justice Hughes, Judges are not there simply to decide cases, but to decide them as they think they should be decided, and while it may be regrettable that they cannot always agree, it is better that their independence should be maintained and recognized than that unanimity should be secured through its sacrifice. A dissent in a Court of last resort, to use his words, is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting Judge believes the Court to have been betrayed.

Also found at [1988] 1 CLJ 219

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TAB D

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HONAN PLANTATIONS SDN BHD

v.

KERAJAAN NEGERI JOHOR & ANOR

COURT OF APPEAL, KUALA LUMPUR
GOPAL SRI RAM JCA
SITI NORMA YAAKOB JCA
DENIS ONG JCA
[CIVIL APPEAL NO: J-01-30-1996]
14 JANUARY 1998

CIVIL PROCEDURE: *Striking out - Statement of claim - Whether reasonable cause of action disclosed - Principles governing application to strike out - Rules of the High Court 1980, O. 18 r. 19*

The appellant was the registered proprietor of a piece of land in Johor. The gist of the appellant's complaint was that the property was acquired contrary to law in the sense that the acquisition was *ultra vires* and unreasonable. After service of the writ and statement of claim, applications were taken out by the respondents to strike out the action on the ground that it disclosed no reasonable cause of action.

Among the issues for consideration was whether an acquisition under the Land Acquisition Act 1960 ('the Act') was capable of challenge and if so, on what grounds.

Held:
Per Gopal Sri Ram JCA

[1] The principle governing an application made under O. 18 r. 19 is that pleadings ought not to be struck out save in plain and obvious cases.

[2] An acquisition made under the provisions of the Act cannot be challenged unless a plaintiff establishes that the acquiring authority had misconstrued its powers or had acted in bad faith or with gross unreasonableness. The statement of claim in the present case includes a challenge which falls within grounds of challenge as formulated in established cases. The facts pleaded therefore disclosed a reasonable cause of action.

[Appeal allowed.]

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*[**Bahasa Malaysia** Translation of Headnotes]*

Perayu merupakan pemilik berdaftar sebidang tanah di Johor. Huraian aduan perayu adalah bahawa tanah tersebut telah diambil bertentangan dengan undang-undang, iaitu bahawa pengambilan tersebut adalah *ultra vires* dan tidak munasabah. Setelah writ dan pernyataan tuntutan diserahkan, permohonan telah dibuat oleh responden untuk membatalkan tindakan tersebut atas dasar bahawa ianya tidak memperlihatkan kausa tindakan yang munasabah.

Antara isu-isu untuk dipertimbangkan adalah samada suatu pengambilan tanah di bawah Akta Pengambilan Tanah 1960 ('Akta tersebut') boleh dicabar dan jikalau boleh, apakah dasar-dasarnya.

Diputuskan:
Oleh Gopal Sri Ram HMR

[1] Prinsip yang terpakai kepada suatu permohonan yang dibuat di bawah A. 18 k. 19 adalah bahawa pliding tidak harus dibatalkan kecuali dalam kes-kes yang jelas dan ternyata.

[2] Suatu pengambilan yang dibuat di bawah peruntukan-peruntukan Akta tersebut tidak boleh dicabar kecuali jikalau plaintif dapat membuktikan bahawa pihak berkuasa pengambilan telah salah memahami kuasanya ataupun telah bertindak dengan tidak ikhlas ataupun dengan secara tidak munasabah yang terlampau. Pernyataan tuntutan dalam kes ini mengandungi cabaran yang termasuk dalam dasar-dasar mencabar yang telah dibuktikan dalam kes-kes yang telahpun ditetapkan. Maka fakta-fakta yang dipohon telah memperlihatkan kausa tindakan yang munasabah.

[Rayuan dibenarkan.]

Cases referred to:
Anisminic Ltd v. Foreign Compensation Commission [1969] 2 AC 147 ***(refd)***
Associated Provincial Pictures House Ltd v. Wednesbury Corp [1948] 1 KB 223 ***(refd)***
Kulasingam v. Commissioner of Land, Federal Territory [1982] 1 CLJ 65 ***(refd)***
Mooney & Ors v. Peat, Marwick, Mitchell & Co & Anor [1967] 1 MLJ 87 ***(foll)***
Pemungut Hasil Tanah, Daerah Barat Daya, Penang v. Ong Gaik Kee [1983] 2 MLJ 35 ***(refd)***
Syed Omar Alsagoff v. Government of Johor [1979] 1 MLJ 49 ***(refd)***
Yeap Seok Pen v. Government of Kelantan [1986] 1 MLJ 449 ***(refd)***

Legislation referred to:
Land Acquisition Act 1960, s. 8(3)
Rules of the High Court 1980, O. 18 r. 19

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For the appellant - Tommy Thomas (Lim Chee Wee with him); M/s Skrine & Co
For the respondents in the 1st appeal - Dato' Zainal Adzam Abd Ghani (Teo Say Eng SFC with him)
For the respondents in 2nd appeal - Dato' Zaki Tun Azmi; M/s Rashid & Lee

[Appeal from High Court, Johor Bahru; Suit No: 21-179-1995]

Reported by Mariette Peters-Goh

JUDGMENT

Gopal Sri Ram JCA:

The appellant before us (plaintiff in the court below) was the registered proprietor of approximately 996 hectares of land situated in the State of Johor. It filed proceedings in the High Court of Johor challenging the decision by the first defendant (the State Government of Johor) to acquire the land, which I will, for convenience, refer to as "the subject property". This forms the subject matter of the Civil Appeal No. J-01-30-96 ("the first appeal"). There is another appeal before us arising out of the same subject matter. It is Civil Appeal J-02-68-96 ("the second appeal"). I will say something more of the second appeal in a moment.

Returning to the facts of the case, the plaintiff in its statement of claim, apart from joining the Government of Johor and the Land Administrator, cited Prolink Sdn. Bhd. as the third defendant. The gist of the appellant's complaint is that the subject property was acquired contrary to law in the sense that the acquisition was *ultra vires* or vitiated on "Anisminic" grounds (the reference here being to the decision of the House of Lords in *Anisminic Ltd v. Foreign Compensation Commission* [1969] 2 AC 147) or for "Wednesbury unreasonableness" (see *Associated Provincial Pictures House Ltd v. Wednesbury Corporation* [1948] 1 KB 223). After service of the writ and statement of claim on all defendants, applications were taken out by the first and second respondents in the first appeal as well as Prolink (respondent in the second appeal) to strike out the action on the ground that it disclosed no reasonable cause of action.

The learned judge who heard both sets of applications granted them and struck out the plaintiff's statement of claim. The appellant has now filed two appeals and as I have said in the first appeal, it is the Johor Government and Land Administrator who are the respondents.

I now turn to the second appeal merely to state that the respondent is Prolink and that the challenge by the appellant is limited to the order made in the separate summons in that case.

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For convenience we heard both the appeals together and I propose to give reasons for my decision in both appeals at the same time.

The application to strike out in the first appeal was based on O. 18 r. 19(1)(a) of the Rules of the High Court 1980. In the second appeal, affidavits were also filed but as events transpired they were not used. Counsel before us have therefore proceeded on the ground that both appeals are grounded and are to be treated as having been made under O. 18 r. 19(1)(a).

The principles governing an application made under O. 18 r. 19(1)(a) are well settled and have been stated by our courts on many occasions. For my part I can do no better than to quote from the judgment of Raja Azlan Shah J (as he then was) in *Mooney & Ors v. Peat, Marwick, Mitchell & Co & Anor* [1967] 1 MLJ 87 at p. 88:

> It is firmly established that the power exercised under r. 4 (the precursor to O. 18 r. 19) 'is only appropriate in cases which are plain and obvious so that a judge can say at once that a statement of claim as it stands is sufficient, even if proved, to entitle the plaintiff to the relief of which he asks for': see the judgment of Lindley M.R. in *Hubbuck & Sons v. Wilkinsons, Heywood & Clark Ltd.* [1899] 1 QB 86, 91. Where the situation arises, the pleadings and particulars alone shall be considered and all the allegations in it shall be presumed to be true, and it is only on that assumption that any suitable case can be made for this application: see *Peck v. Russell* [1923] 4 FMSLR 32, 34. The court cannot and indeed is not empowered to look behind the pleadings and particulars if it discloses a reasonable cause of action. So long as the statement of claim discloses some ground of action the mere fact that the plaintiff is not likely to succeed on it at the trial is no ground for it to be struck out: see *Boaler v. Holder* [1886] 54 LT 298. A recent exposition of the law is afforded by the judgment of Danckwerts LJ in *Wenlock v. Moloney* [1965] 1 WLR 1238, 1243.
>
> > Under the rule (ie, 25 r. 4) it had to appear on the facts of the plaintiff's pleadings that the action could not succeed or was objectionable for some other reason. No evidence could be filed ... But, as the procedure was of a summary nature the party was not to be deprived of his rights to have his case tried by a proper trial unless the matter was clear.
>
> After stating that the former rules are now incorporated in the revised Rules of the Supreme Court, O. 18 r. 19, he continues:
>
> > But this summary jurisdiction of the court was never intended to be exercised by a minute and protracted examination of the documents and facts of the case in order to see whether the plaintiff really has a cause of action. To do that is to usurp the position of the trial judge.

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In essence, therefore, the principle is that pleadings ought not to be struck out save in plain and obvious cases.

The learned judge in the present case stated the principles applicable to an O. 18 r. 19 application with accuracy. The only complaint before us by the appellant is that he misapplied those principles to the facts of the instant appeal.

At the heart of the matter lies the question whether an acquisition under the Land Acquisition Act 1960 ("the Act") is capable of challenge and if so, on what grounds. That question has already received judicial treatment in cases decided by the highest courts of this country. Before discussing the line of authority cited to us by Encik Tommy Thomas of counsel for the appellant, I think I should sum up the effect of those cases. It is this. An acquisition made under the provision of the Act cannot be challenged unless a plaintiff establishes that the acquiring authority had misconstrued its powers or had acted in bad faith or with gross unreasonableness. The limit of the challenge is occasioned by the wording of s. 8(3) of the Act, which reads:

> A declaration in Form D shall be conclusive evidence that all scheduled land referred to therein is needed for the purpose specified therein.

In *Syed Omar Alsagoff v. Government of Johor* [1979] 1 MLJ 49 [PC], the Privy Council, whose advice on that occasion was delivered by Viscount Dilhorne, put the matter in this way:

> Section 8(3), as has been said, provides that the Declaration shall be conclusive evidence that all scheduled land is needed for the purpose specified therein. While it may be possible to treat a Declaration made pursuant to this subsection as a nullity if it be shown that the acquiring authority has misconstrued its statutory powers (see *Anisminic v. Foreign Compensation Commission* [1969] 2 AC 147) or that the purpose stated in the Declaration does not come within s. 3, in the absence of bad faith, which in the instant case is negatived by concurrent findings of facts in the court below, this subsection renders it not possible to challenge its validity by asserting that some of the land to which it relates is not needed for the purposes stated or that the land is in fact wanted for purposes other than those specified. Consequently the fact that the lands listed in the Schedule amounted to some 5,700 acres when the total area of the State Development Officer's original requirements was 2,000 acres does not help the appellants, nor can it really be contended that the purposes stated in the Declaration do not come within s. 3.

The next authority is *Kulasingam v. Commissioner of Land, Federal Territory* [1982] 1 MLJ 204. There, Hashim Yeop A. Sani J (as he then was) when dismissing the challenge to acquisition explained the effect of the Alsagoff case as follows:

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> The challenge of the plaintiff on this point, however, can be fully answered by the judgment by the Privy Council in *Syed Omar bin Abdul Rahman Tahar Alsagoff & Anor v. The Government of the State of Johor* [1979] 1 MLJ 49 where the Privy Council in dismissing the appeal held that s. 8(3) of the Land Acquisition Act 1960 provides that the declaration issued under the section shall be conclusive evidence that all the scheduled land is needed for the purpose specified therein. The judgment of Viscount Dilhorne would seem to reaffirm *Wijeyesekera v. Festing* AIR [1919] PC 155 and *SMT Somavanti & Ors v. State of Punjab & Ors* [1963] 2 SCR 774, on the matter of the Government declaration of public purpose but the judgment also goes one step further in providing for the circumstances when the courts can treat such declaration as a nullity.

Abdoolcader J (as he then was) in delivering the judgment of the Federal Court in the same case said of the effect of s. 8(3):

> The conclusive evidence clause in s. 8(3) which we have mentioned in effect provides that the decision of the State Authority that the land is needed for the purpose specified under s. 8(1) is final and conclusive and cannot be questioned *Wijeyesekera v. Festing* AIR [1919] PC 155. The Privy Council however held in *Syed Omar Alsagoff & Anor v. Government of the State of Johor* [1979] 1 MLJ 49 (at p. 50) that it may be possible to treat a declaration under s. 8 as a nullity if it be shown that the acquiring authority has misconstrued its statutory powers or that that purpose stated therein does not come within s. 3 or if bad faith can be established. The purpose of the acquisition can therefore be questioned but only to this extent.

In *Pemungut Hasil Tanah, Daerah Barat Daya, Penang v. Ong Gaik Kee* [1983] 2 MLJ 35, Salleh Abas CJ (as he then was) said in the context of land acquisition cases:

> Every exercise of statutory power must not only be in conformity with the express words of the Statute but above all must also comply with certain implied legal requirements. The court has always viewed its exercise as an abuse and therefore treats it as illegal where the exercise is done for an inadmissible purpose or on irrelevant grounds or without regard to relevant considerations or with gross unreasonableness (*de Smith's,* 4th Edn, p. 323; and *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 KB 223.

Finally in *Yeap Seok Pen v. Government of Kelantan* [1986] 1 MLJ 449, Lord Griffith in two passages, in the advice of the Privy Council, set out the principles applicable to a challenge of land acquisition in the face of s. 8(3) of the Act. This is how he put it at p. 451:

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> In presenting her appeal to this Board, the appellant has confined herself to the second of her original grounds, namely, that the compulsory acquisition of her land was made in bad faith in that her land was selected for compulsory acquisition because she is not of Malay origin, and that the Government used their compulsory purchase powers as a device to prevent her, as a Chinese Malaysian, from becoming the owner of land. If the appellant could prove that this was the disgraceful purpose for which the compulsory purchase power was used, it would be a clear case of abuse of power entitling her to have the compulsory purchase order quashed. There is no dispute about this principle of law and it was recognised by both the judge and the Federal Court. But as the trial judge rightly observed, bad faith of this order is an exceedingly serious allegation to make and she, who makes it, has a heavy burden to discharge the onus of proving it.

And at p. 453 he said:

> He who asserts bad faith has the burden of proving it, mere suspicion is not enough. In deciding whether the burden is discharged, the court will consider all the evidence before it, including any explanation given by the Minister and any inference to be drawn from the failure to give an explanation. Their Lordships can see no reason to suppose that this was not the approach adopted in the Federal Court.
>
> Secondly, there is no reason to suppose that the courts below did consider that the material placed before them by the appellant raised the suspicion of bad faith. They rehearsed the appellant's argument in the judgments but did not say that they were suspicious of the respondent's motives.
>
> Thirdly, unlike the case of *Soblen* (*R. v. Governor of Brixton Prison Ex Parte Soblen* [1963] 2 QB 243) in which discovery had been refused, no attempt was made by the appellant, either through a request for discovery or to cross-examine upon the respondent's affidavits, to probe into the Foundation's reasons for requesting the compulsory acquisition of her property.
>
> This was an allegation of bad faith founded on scanty evidence. Their Lordships are not surprised that that evidence was held to be insufficient to discharge the burden of proof upon the appellant and can find no fault in the judgment of the Federal Court.

As I have already said, the statement of claim in the present case includes a challenge which falls plumb within the grounds of challenge formulated in the cases I have discussed a moment ago. Can it be then said that the statement of claim in the instant case discloses no reasonable cause of action whatsoever? After anxious consideration I am inclined to answer in the negative. In my judgment, the facts pleaded in the statement of claim abundantly disclose a reasonable cause of action. In coming to this conclusion I have not overlooked

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the powerful submissions of Dato' Zainal, State Legal Adviser and Dato' Zaki of counsel for Prolink, that the Privy Council had in the Alsagoff case treated as entirely proper the action of the State Government in that case as reflected in the following passage in the judgment of Viscount Dilhorne at p. 50 of the report:

> Paragraph 1 of that Declaration is, as Syed Othman J held, 'the material or substantive part of the declaration', a conclusion with which the Federal Court agreed and with which their Lordship agree. The Schedule attached to the Declaration lists the lands to be acquired and the paragraph states the purposes of the acquisition. The plan referred to in para. 2 has to be a plan of the lands and areas so specified. *The Act imposes no obligation on the acquiring authority to produce a plan for inspection which shows how the land to be acquired is to be zoned. Such evidence as there was to the effect that zoning of the area which effected the appellants' lands for special purposes in this draft lay-out plan prepared by the Planning Officer was never accepted and approved by the State Authority; but even if it had been, that would not, in their Lordships' view, fell outside s. 3 of para. 1 of the Declaration for where, as in the instant case, a new town is to be created, the provision of space for creation may be regarded as an incidental to zoning for residential use.* The Interpretation and General Clauses Ordinance 1948, s. 30, provides that
>
> > Where a written law confers on any person to do … any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do … the act or thing.
>
> In the event, however, the appellants' lands have actually been used as part of a shipyard.

With respect, I am unable to agree with the arguments of the learned State Legal Adviser and Dato' Zaki that the above passages establish any principle of general application. In my judgment, the answer to the submissions made by counsel for both the respondents was provided during argument this morning by my learned brother Denis Ong Jiew Fook, JCA who described the passage relied upon as merely a holding on the facts of that case and not a principle of law. I am of like mind.

Having considered the matter carefully, I am compelled to arrive at the conclusion that the learned judge had misdirected himself in holding that the statement of claim was demurrable and ought to be struck out. It would appear from his judgment that his view is that land once acquired can never be recovered from the acquiring authority and that the act of acquiring can never be challenged. This comes across in the following passage in his judgment:

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> But in the face of statutory prohibitions expressly or necessarily implied in the Act as discussed above, and after having cautioned myself, I am of the view that the plaintiff's action against the first and second defendant is 'obviously unsustainable'. The pleading do not at all disclose some cause of action or even raise any question fit to be decided. Furthermore, s. 8(1) of the Specific Relief Act 1950 provides that if any person is dispossessed without his consent of immovable property **otherwise that in due course of law** he may, by suit, recover possession thereof and s. 8(3) provides that no suit under this section shall be brought against any Government in Malaysia. The plaintiff has, by virtue of the acquisition by the State Authority, been dispossessed of its land **in due course of law** and even if assuming that he proves that there was malice, I cannot see how he can bring a suit against the State Government of Johor in the face of such a provision.

I have consciously refrained from regurgitating the statement of claim and the particulars pleaded under its several paragraphs. I have not undertaken that task because the learned judge in his judgment has sufficiently set out the allegations in the statement of claim and admirably summarised them.

For the reasons I have given, I am of the view that this appeal should be allowed. The orders I propose to make are as follows:

(1) Civil Appeals No. J-01-30-96 and No. J-02-68-96 are hereby allowed;

(2) The order of the judge dated 19 January 1996 is set aside;

(3) The writ and statement of claim shall be restored to file;

(4) The defendants in this appeal are to file their defences within six weeks from the date of this order;

(5) There shall be no order as to costs against the respondents in the first appeal, both here and in the court below. The respondent in the second appeal shall pay all the costs of the appeal and in the court below. These costs shall be taxed but there shall be a stay upon the allocatur until further order.

Siti Norma Yaakob JCA:

I concur.

Denis Ong JCA:

I concur.

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TAB E

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A

HODAN-R SDN BHD

v.

DATO' MOHD HISHAMUDIN HJ MOHD YUNUS

B

HIGH COURT MALAYA, KUALA LUMPUR
RAMLY ALI J
[SUMMONS NO: D5-22-1661-2006 (S7-22-992-2006)]
13 MARCH 2007

C ***CIVIL PROCEDURE:*** *Pleadings - Striking out - Claim against High Court judge - Orders made by judge while handling civil suit - Whether within ambit of immunity accorded by law - Whether claim disclosing no cause of action - Whether flawed and unsustainable - Rules of High Court 1980, O. 18 r. 19(1)(a), (b) and (d) - Courts of Judicature Act 1964,*
D *s. 14(1)*

CONSTITUTIONAL LAW: *Courts - Judges - Judicial immunity - Immunity from civil liabilities - Extent and scope - Courts of Judicature Act 1964, ss. 14, 23, 25 - Federal Constitution, arts. 121(1), 122B(i)*

E This was an application by the defendant, a serving High Court judge, to strike out the plaintiff's writ and statement of claim pursuant to O. 18 r. 19(1)(a), (b) & (c) Rules of the High Court 1980, on the ground that the claim disclosed no reasonable cause of action and were scandalous, frivolous, vexatious and an abuse
F of process. The plaintiff was aggrieved by the actions of the defendant as the presiding judge in Civil Action No. S-3-23-33-2005, in which the plaintiff was the defendant, *inter alia* for taking nine months to dispose off an injunction application therein; giving contradictory directions to the parties; directing the parties to file
G numerous written submissions on the same issue; making orders that were contradictory to one another; and wrongly awarding a Property Preservation Order against the plaintiff. It was the plaintiff's stand that the defendant, by the actions, was guilty of malice, case fixing, judicial misconduct and biasness. Hence, by its
H claim herein, the plaintiff sought to strike the orders made by the defendant, prohibit the defendant from further conduct of the matter and recover from the defendant more than RM30 million in damages and loss of expectancy. The defendant contended that the claim was devoid of any cause of cause of action, and was
I obviously unsustainable, as he was in law protected by judicial immunity. Hence, the application to strike out.

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Held (allowing application and striking out claim):

(1) The plaintiff's statement of claim had disclosed no cause of action whatsoever whether on facts or in law. The statement of claim is clearly flawed as it lacks the fundamentals of a cause of action, let alone a reasonable cause of action. (para 14)

(2) In Malaysia, the concept of judicial immunity is derived both from statute and common law. The relevant statutory provision dealing with judicial immunity is found in s. 14 Courts of Judicature Act 1964. (paras 20 & 21)

(3) The authorities clearly showed that the ambit of judicial immunity is wide. It protects a judge from all civil liabilities for all judicial and administrative acts necessary for a judge to carry out his duties effectively, so long as the judge acts in good faith. This is so even if the judge has acted "under some gross error, or ignorance, or was actuated by envy, hatred and malice, and all uncharitableness" or he is "shown to have acted so perversely or so irrationally that what he did should not be treated as a judicial act". The only exception to judicial immunity is if the judge has accepted bribes, or is corrupt, or has perverted the course of justice or has committed any criminal conduct. In those circumstances, a judge may be liable to criminal prosecution and may even be removed from office, but he still cannot be liable in a civil action for damages. (paras 37 & 38)

(4) From the plaintiff's pleaded case, there is no allegation that the defendant was corrupt, or that he had accepted bribes, or that he had a personal interest in the matter. There is also no allegation of any criminal conduct. On the contrary, all the allegations in the statement of claim pertain to the conduct of the defendant in carrying out his judicial functions. The acts complained of, therefore, clearly fall within the ambit of the defendant's jurisdiction over a civil suit where he has substantive jurisdiction. (paras 43 & 44)

(5) The plaintiff's action against the defendant discloses no cause of action and is scandalous, frivolous and vexatious. It is also an abuse of the process of the court. Hence, it cannot be allowed to go for full trial. The plaintiff's remedy, if at all, must lie in an appeal. (paras 47 & 52)

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Case(s) referred to:

Anderson v. Gorrie [1895] 1 QB 668 ***(refd)***

Bandar Builder Sdn Bhd & Ors v. United Malayan Banking Corporation Bhd [1993] 4 CLJ 7 SC ***(refd)***

Boey Oi Teng (trading as Indah Reka Construction & Trading) v. Trans Resources Corporation Sdn Bhd [2002] 1 CLJ 405 HC ***(refd)***

Drummond-Jackson v. British Medical Association [1979] 1 All ER 1094 ***(refd)***

Gabriel Peter & Partners v. Wee Chong Jin [1998] 1 SLR 374 ***(refd)***

Garthwaite v. Garthwaite [1964] 2 All ER 233 ***(refd)***

Garnett v. Ferrand [1827] 6 B&C 611 ***(refd)***

Government of Malaysia v. Lim Kit Siang [1988] 1 CLJ 219; [1988] 1 CLJ (Rep) 63 SC ***(refd)***

Harvey v. Derrick [1995] 1 NZLR 314 ***(refd)***

Hj Hussin Hj Ali & Ors v. Datuk Hj Mohamed Yaacob & Ors [1983] 2 MLJ 227 ***(refd)***

Indah Desa Saujana Corp Sdn Bhd v. James Foong Cheng Yuen & Anor [2005] 4 CLJ 925 HC ***(refd)***

Law Hock Hua & Anor v. Timbalan Pendaftar Mahkamah Tinggi Kuala Lumpur & Anor [2006] 4 CLJ 300 HC ***(refd)***

Lee Phet Boon v. Hock Thai Finance Corp Bhd [1994] 3 CLJ 465 HC ***(refd)***

Pengiran Othman Shah Pengiran Mohd Yusoff & Anor v. Karambunai Resorts Sdn Bhd & Ors [1996] 1 CLJ 257 CA ***(refd)***

Riches v. Director of Public Prosecutions [1973] 2 All ER 935 ***(refd)***

Sim Kie Chon v. Superintendent of Pudu Prison & Ors [1985] 2 MLJ 385

Sirros v. Moore & Ors [1975] 1 QB 118 ***(refd)***

Taaffe v. Dowries, 3 Moo PC ***(refd)***

Technointan Holding Sdn Bhd v. Tetuan Tan Kim Siong & Teh Hong Jet [2006] 7 CLJ 541 HC ***(refd)***

Tractors Malaysia Bhd v. Tio Chee Hing [1975] 2 MLJ 1 ***(refd)***

Legislation referred to:

Courts of Judicature Act 1964, ss. 14(1), 23, 25, 68

Federal Constitution, arts. 121(1), 122B(i)

Rules of the High Court 1980, O. 18 r. 19(1)(a), (b), (d)

Other source(s) referred to:

PN Bhagwati, *The Challenge to the Profession by the Judiciary* [1987] 2 CLJ 101, p 103

For the plaintiff - M/s Mohammed Azmi & Assoc

For the defendant - Asmabi Mohammad SFC

For Bar Council (appearing as amicus curiae) - Robert Lazar (Sheila Lingam with him); M/s Shearn Delamore & Co

Reported by WA Sharif

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JUDGMENT

Ramly Ali J:

[1] Enclosure 11 is an application made by the defendant pursuant to O. 18 r. 19(1)(a), (b) and (d) of the Rules of the High Court 1980 (RHC) whereby the defendant seeks to strike out the plaintiff's writ and statement of claim dated 29 September 2006 on the grounds that the pleadings disclose no reasonable cause of action and that the pleadings are scandalous, frivolous, vexatious and an abuse of the process of the court.

[2] The defendant's application is premised on the following grounds, namely:

(a) the plaintiff's writ and statement of claim do not disclose any reasonable or recognisable cause of action against the defendant;

(b) the plaintiff's claim is scandalous, frivolous and vexatious and an abuse of the court process as the claim is obviously hopeless and unsustainable; and

(c) the plaintiff's claim is scandalous, frivolous and vexatious as well as being an abuse of the court process as it is contrary to s. 14 of the Courts of Judicature Act 1964.

Factual Background

[3] In his statement of claim the plaintiff pleaded that:

(a) the defendant is a High Court Judge and is attached to the Civil Division of the High Court of Malaya at Kuala Lumpur;

(b) at the material time the defendant was stationed at Civil High Court (3) and was handling Civil Action No. S3-33-33-2005 (the said "civil action");

(c) the plaintiff was the "defendant" in the said civil action;

(d) there were elements of malice, case fixing, judicial misconduct and biasness on the part of the defendant in the conduct of the said civil action;

(e) since there were elements of judicial misconduct, case fixing, abuse of the defendant's position as a High Court Judge and the defendant's unbecoming attitude in the conduct of the matter, the defendant is therefore not protected by the immunity under the law; and

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(f) the attitude of the defendant in the conduct of the said civil action will result in the erosion of public's confidence in the judicial system and will ultimately cause its destruction.

[4] The particulars of malice, case fixing and biasness are:

(a) the defendant took nine (9) months to hear an injunction matter;

(b) an injunction matter required a number of written submissions; and

(c) as a judge hearing the matter the defendant was giving unbalanced direction ie,:

(i) the defendant refused to hear the *inter parte* application which was fixed for hearing but had instead maliciously directed parties to file their written submissions. The directions caused the plaintiff to loose out almost six (6) months;

(ii) when the plaintiff in the said civil action withdrew encl. 3 (mareva injunction), the defendant tried to be smart and protected the plaintiff's rights by giving the Property Preservation Order pending the disposal of encl. 10 which is wrong in law;

(iii) on 14 February 2006 the defendant had maliciously struck out all submissions filed by parties and had directed parties to put a new submissions. The malicious act of the defendant had resulted in the plaintiff loosing another three (3) months;

(iv) the defendant did not look up when delivering his judgment and took only two (2) minutes to do so;

(v) the defendant was bias and malicious and gave two contrary orders;

(vi) there was element to *mala fide* on the part of the defendant who had at all the times confused, played out and misdirected the plaintiff;

(vii) even though the plaintiff's case is clear cut and strong the defendant still gave protection to the "illegal contractors"; and

(viii) the defendant did not exercise his judicial powers properly by giving two (2) contradictory orders which resulted in the freezing of the plaintiff's accounts and causing the company to be paralysed;

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[5] The relief sought by the plaintiff in his statement of claim are:

(a) all orders made by the defendant in the said civil action be struck out;

(b) that the defendant is prohibited from further conduct of the matter;

(c) defendant to pay the plaintiff RM30 million plus interest for loss of expectancy; and

(d) special and general damages and costs.

Principles For Striking Out

[6] In order for an application under O. 18 r. 19(1) of the RHC to succeed, the defendant must be able to satisfy the court that the plaintiff's claim is plainly and obviously hopeless and unsustainable; scandalous, frivolous or vexatious, where the defences are unarguable

(see cases: 1. *Tractors Malaysia Bhd v. Tio Chee Hing* [1975] 2 MLJ 1;

2. *Sim Kie Chon v. Superintendent of Pudu Prison & Ors* [1985] 2 MLJ 385;

3. *Bandar Builder Sdn. Bhd. & Ors v. United Malayan Banking Corporation Bhd.* [1993] 4 CLJ 7;

4. *Pengiran Othman Shah bin Pengiran Mohd Yusoff & Anor v. Karambunai Resorts Sdn. Bhd. & Ors* [1996] 1 CLJ 257).

[7] The Federal Court in *Sim Kie Chon v. Superintendent of Pudu Prison & Ors (supra)* at p. 386 held:

> The principle governing the striking out of pleadings is clear in that it is only in plain and obvious cases that recourse should be had to the summary process under Order 18 rule 19 of the Rules of the High Court 1980; the summary procedure under this rule can only be adopted when it can clearly be seen that a claim or answer is on the face of it 'obviously unsustainable'.

[8] This view was repeated by the Federal Court in *Bandar Builder Sdn. Bhd. & Ors v. United Malayan Banking Corporation Bhd. (supra)* at p. 11:

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> The principle upon which the Courts act in exercising its power under any of the four (4) limbs of Order 18 rule 19(1) of the RHC are well settled. It is only in plain and obvious cases that recourse should be had to the summary process under this rule and this summary procedure can only be adopted when it can be clearly seen that a claim or answer is on the face of it 'obviously unsustainable'.

[9] Further, it was said in *Haji Hussin bin Haji Ali & Ors v. Datuk Haji Mohamed bin Yaacob & Ors* [1983] 2 MLJ 227 at p. 230 that where a cause of action is doomed to fail, it must be struck out to avoid unnecessary waste of time and expense. There, the Federal Court confirmed the decision of the High Court which had struck out the claim under O. 18 r. 19(1) of the RHC on the grounds of time-bar and applied the principles laid down in *Riches v. Director of Public Prosecutions* [1973] 2 All ER 935:

> ... I do not want to state definitely that, in a case where it is merely alleged that the Statement of Claim discloses no cause of action, the limitation objection should or would prevail. In principle, I cannot see why not. If there is any room for an escape from the statute, well and good; it can be shown. But in the absence of that, it is difficult to see why a Defendant should be called on to pay large sums of his own money and a Plaintiff permitted to waste large sums of his own or somebody else's money in an attempt to pursue a cause of action which has already been barred by the statute of limitations and must fail.

Order 18 r. 19(1)(a) Of The RHC

[10] Under O. 18 r. 19(1)(a) of the RHC the court may at any stage of the proceedings order to be struck out any writ in the action on the ground that it discloses no reasonable cause of action.

[11] An application under O. 19 r. 19(1)(a) of the RHC requires a perusal of the pleadings to ascertain whether it does in fact disclose a reasonable "cause of action". In *Government of Malaysia v. Lim Kit Siang* [1988] 1 CLJ 219; [1988] 1 CLJ (Rep) 63 the Supreme Court defined 'cause of action' as:

> ... a statement of facts alleging that a Plaintiff's right, either at law or by statute, has in some way or another, been adversely affected or prejudiced by the act of the Defendant in an action.

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[12] In *Gabriel Peter' & Partners (suing as a firm) v. Wee Chong Jin* [1998] 1 SLR 374 at p. 384 the Singapore Court of Appeal discussed the principles in determining what a "reasonable cause of action" is under O. 18 r. 19(1)(a) of the Rules of Court 1996 at p. 384 by reference to the case of *Drummond-Jackson v. British Medical Association* [1979] 1 All ER 1094:

> A reasonable of action, according to his lordship, connotes a cause of action which has some chance of success when only the allegations in the pleadings are considered.

[13] In the context of O. 18 r. 19(1)(a) of the RHC, it is useful to remember that in perusing the plaintiff's pleadings the court is looking at the plaintiff who has pleaded his best case. The above principles are then applied to the plaintiffs' best case to see if those pleadings ought to be struck out.

[14] In the instant case, what is the plaintiff's cause of action as disclosed from the plaintiff's statement of claim?

The court finds that there is none at all, whether on the facts or in law. The statement of claim is clearly flawed as it lacks the fundamentals of a cause of action, let alone a reasonable cause of action. It so lacks for the simple reason that the plaintiff knows that there is in law and definitely on the facts, no cause of action that they can possibly plead or raise against the defendant. Any reference, especially to the defendant, is obviously based on mere conjecture and bare or fanciful allegations. No court should ever be abused or allow its machinery and system to be the stage of an obviously doomed case.

Order 18 r. 19(1)(b) And (d)

[15] Under O. 18 r. 19(1)(b) and (d) of the RHC, the court may at any stage of the proceedings order to be struck out any writ and statement of claim in the action on the ground that (b) it is scandalous, frivolous or vexatious; or (d) it is otherwise an abuse of the process of the court.

[16] The word "scandalous" is taken to mean "wholly unnecessary and irrelevant", not just unpleasant allegations.

(see: *Boey Oi Teng (trading as Indah Reka Construction & Trading) v. Trans Resources Corporation Sdn. Bhd.* [2002] 1 CLJ 405; and *Technointan Holding Sdn. Bhd. v. Tetuan Tan Kim Siong & Teh Hong Jet* [2006] 7 CLJ 541).

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[17] The words "frivolous or vexatious" on the other hand, mean "obviously unsustainable".

(see: *Technointan Holding Sdn. Bhd. v. Tetuan Tan Kim Siong & Teh Hong Jet (supra)*.

[18] The case of *Gabriel Peter (supra)* addressed the meaning of "an abuse of the process of the court". At p. 384 the Court of Appeal, Singapore said:

> The term 'abuse of the process of the Court', in Order 18 rule 19(1)(d), has been given a wide interpretation by the Courts. It includes considerations of public policy and the interests of justice. This term signifies that the process of the Court must be used *bona fide* and properly and must not be abused. The Court will prevent the improper use of its machinery. It will prevent the judicial process from being used as a means of vexation and oppression in he process of litigation. The categories of conduct rendering a claim frivolous, vexatious or an abuse of process are not closed and will depend on all relevant circumstances of the case. A type of conduct which has been judicially acknowledged as an abuse of process is the bringing of an action for a collateral purpose ... if an action was not brought *bona fide* for the purpose of obtaining relief but for some other ulterior or collateral purpose, it might be struck out as an abuse of the process of the Court.

Judicial Immunity

[19] The most pertinent point to be considered in this application is the issue of judicial immunity in Malaysia.

[20] In Malaysia, the concept of judicial immunity is derived both from statute and common law.

[21] The relevant statutory provision dealing with judicial immunity is found in s. 14 of the Courts of Judicature Act 1964 ("CJA"). Section 14(1) of the CJA reads:

> No Judge or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of.

[22] At common law, one example of a case dealing with the principles of judicial immunity is the case of *Sirros v. Moore & Ors* [1975] 1 QB 118. Lord Denning, MR held at p. 132:

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> Ever since the year 1613, if not before, it has been accepted in our law that no action is maintainable against a Judge for anything said or done by him in the exercise of a jurisdiction which belongs to him. The words which he speaks are protected by an absolute privilege. The orders which he gives, and the sentences which he imposes, cannot be made subject of civil proceedings against him. No matter that the Judge was under some gross error or ignorance, or was actuated by envy, hatred and malice, and all uncharitableness, he is not liable to an action. The remedy of the party aggrieved is to appeal to a Court of Appeal or to apply for *habeas corpus*, or a Writ of error or *certiorari*, or take some step to reverse his ruling. Of course, if the Judge has accepted bribes or been in the least degree corrupt, or has perverted the course of justice, he can be punished in the Criminal Courts. That apart, however, a Judge is not liable to an action for damages. The reason is not because the Judge has any privilege to make mistakes or to do wrong. It is so that he should be able to do his duty with complete independence and free from fear.

[23] And at p. 136 of the same case; His Lordship went on to say:

> ... Every Judge of the Courts of this land – from the highest to the lowest – would be protected to the same degree, and liable to the same degree. If the reason underlying this immunity is to ensure "that they may be free in thought and independent in judgment," it applies to every Judge, whatever his rank. Each should be protected from liability to damages when he is acting judicially. Each should be able to do his work in complete independence and free from fear. He should not have to turn the pages of his books with trembling fingers, asking himself: "If I do this, shall I be liable in damages?"
>
> So long as he does his work in the honest belief that it is within his jurisdiction, then he is not liable to an action. He may be mistaken in fact. He may be ignorant in law. What he does may be outside his jurisdiction – in fact or in law – but so long as he honestly believes it to be within his jurisdiction, he should not be liable. Once he honestly entertains this belief, nothing else will make him liable. He is not plagued with allegations of malice or ill-will or bias or anything of the kind. Actions based on such allegations have been struck out and will continue to be struck out. Nothing will make him liable except it be shown that he was not acting judicially, knowing that he had no jurisdiction to do it.

[24] The local case which comprehensively deals with the issue of judicial immunity is the case of *Indah Desa Saujana Corp. Sdn. Bhd. v. James Foong Cheng Yuen & Anor* [2005] 4 CLJ 925. At p.

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947 of this case, His Lordship Vincent Ng J applied with approval the passages in the case of *Sirros v. Moore & Ors* [1975] 1 QB 118 cited in the preceding paragraph.

[25] His Lordship Vincent Ng J went on to hold as follows at pp. 951-952:

> From all the welter of case authorities, it is beyond question, and I would hold that section 14 of the CJA and common law afford complete immunity and protection to a Judge from all civil liabilities for all judicial acts in cases registered or presided over or assigned to be dealt with by him. And, this immunity is extant even if the Judge had acted 'under some gross error, or ignorance, or (his act) was actuated by envy, hatred or malice, and all uncharitableness ...' or he is 'shown to have acted so perversely or so irrationally that what he did should not be treated as a judicial act at all' (see Sirros, Harvey, Nakhla and Taylor). I am completely ad idem with Lord Buckley LJ that even if the Judge is 'shown to have acted so perversely or so irrationally that what he did should not be treated as a judicial act at all' the remedy is his removal from office rather than to sue him in a private action which would not be in the public interest as Judges should be able to do their work in complete independence and free from fear in having to perpetually ask the question: 'If we do this shall we be liable in damages'.

[26] The English law of judicial immunity against civil liability for acts done by judges in their judicial capacity is rooted for back in their legal history. Its development and form owes much to the history of the judicial system which has also influenced the language in which the doctrine has from time to time been clothed, (per Buckley LJ in *Sirros v. Moore (supra)*. This immunity is in each case based on public policy.

[27] In *Anderson v. Gorrie* [1895] 1 QB 668, Lord Esher MR said:

> "The ground alleged from the earliest times as that on which this rule" that no action will lie for a judicial act "rests is that if such an action would lie the judges would lose their independence, and that the absolute freedom and independence of the judges is necessary for the administration of justice.

[28] From the angle of public policy Ormrod LJ in *Sirros v. Moore (supra)* expressed his view as follows:

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It is an established rule of public policy:

> ... neither party, witness, counsel, jury, nor judge, can be put to answer civilly or criminally for words spoken in office; that no action of libel or slander lies, whether against judges, counsel, witnesses, or parties, for words written or spoken in the course of any proceeding before any Court recognised by law, and this though the words written or spoken were written or spoken maliciously, without any justification or excuse, and from personal ill-will and anger against the person defamed: per Lopes LJ in *Royal Aquarium and Summer and Winter Garden Society Ltd. v. Parkinson* [1892] 1 QB 431, 451.

[29] In the Irish case of *Taaffe v. Dowries,* 3 Moo PC (reported in a note beginning at p. 36 decided in 1812; as cited by Ormrod LJ in *Sirros v. Moore (supra)*, Fox J said at pp. 51-52 as follows:

> The principle at law, of exemption from being sued for matters done by judges in their judicial capacity, is of great importance. It is necessary to the free and impartial administration of justice, that the persons administering it should be uninfluenced by fear and unbiased by hope. Judges have not been invested with this privilege for their own protection merely: it is calculated for the benefit of the people, by ensuring to them a calm, steady, and impartial administration of justice; it is a principle coeval with the law of the land, and the dispensation of justice in this country; and is founded on the very frame of the constitution; it is to be met with in the earliest books of law; and has been continued down to the present time, without the authority or dictum to the contrary, that I have been enabled to find. My brother Mayne, who preceded me, has given a clear and lucit detail of the authorities, as they have arisen from time to time. Most of them were mentioned in the course of the argument at the bar. After the manner in which they have been stated by him, it becomes superfluous now for me to travel minutely through them again; but I think myself called upon, in assertion of this principle, so vitally necessary to the administration of justice, to maintain it in such a manner, as may be requisite to give it full effect and operation; still, however, not trenching in any manner on the rights of the subject, which this principle is intended to protect; no to injure or infringe. It appears to be most necessary that a judge administering justice shall not be liable to answer for acts done judicially by him, by the way of action or prosecution; – they are only answerable for their judicial conduct in the High Court of Parliament; and without the existence of this principle, it is utterly impossible that there could be such a dispensation of justice, as would have the effect of protecting the lives or property of the subject. A judge must – a judge ought to be uninfluenced

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A by any personal consideration whatsoever operating upon his mind, when he is hearing a discussion concerning the rights of contending parties; otherwise, instead of hearing them abstractedly, a considerable portion of his attention must be devolved to himself. There is something so monstrous in the contrary
B doctrine, that it would poison the very source of justice, and introduce a system of servility, utterly inconsistent with the constitutional independence of the judges, – an independence which it has been the work of ages to establish, and would be utterly inconsistent with the preservation of the rights and liberties of the subject.

C

[30] The Court of Appeal in New Zealand in the case of *Harvey v. Derrick* [1995] 1 NZLR 314 has also stressed the importance of public policy consideration to justify judicial immunity. Richardson J, in that case said:

D

A range of public interest considerations has been advanced by Courts and commentators to justify judicial immunity. The primary grounds are that the public interest requires an independent judiciary free from the fear of vexatious personal actions and judiciary immunity is necessary to protect the free and
E independent exercise of judgment in the public interest; that it is crucial in a democracy that Judges be perceived as fair and responsible and judicial immunity is necessary to preserve the dignity and respect of the judicial system as a whole; and that without a rule of judicial immunity it may become increasingly difficult to attract men and women of the highest character and
F ability to judicial office.

[31] The strength of this judicial immunity lies in the right of citizens to feel that when discharging his judicial duties a judge will have no more reason to be affected by fear than he will allow
G himself to be subjected to influences of favour. Thus he is surrounded with an absolute immunity from civil proceedings for act done or words spoken in the exercise of his judicial office. But that immunity is in no sense a private right which might be regarded as having been conferred upon him which he then might
H be said to enjoy. He is merely the repository of public right which is designed to ensure the administration of justice will be untrammeled by the collateral attacks of disappointed or disaffected litigants. A judge can, of course, be made to answer, and in a proper case pay dearly, for any criminal misconduct. Like
I any other citizen criminal proceedings may be brought against him. If need arose steps may be taken in accordance with law to remove him from office. In that sense, a judge is not 100%

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immune. In other words, judicial immunity as discussed above not in any way confers a judge a status 'above the law'. It does not cover any act done by a judge in his personal capacity or done outside his official duties. If in the course of his official work he should fall into error, the matter can become the subject of appeal. If he should wrongly deprive a man of his freedom altogether, then, apart from appeal, there is the remedy of *habeas corpus*. But in relation to the performance of his judicial function the judge is immune from attack in civil proceedings.

[32] Section 14(1) of the Malaysian Courts of Judicature Act 1964 covers any "judge" (which refers to judges of the Superior Courts) as well as "other person acting judicially" (which includes Session Court judges, Magistrate, Registrar as well as Deputy Registrar and Senior Assistant Registrar, exercising their judicial functions or duties). The protection covers "any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limit of his jurisdiction." However, in order for this protection not to be abused by those persons "protected" under the section, he must "at the time in good faith believed himself to have jurisdiction to do so or order the act complained of".

[33] The expression "jurisdiction" seems to play an important role in interpreting s. 14(1) of the Courts of Judicature Act 1964. This is because the section covers acts done in cases where the judge has jurisdiction as well as cases where he has no jurisdiction provided that he at the material time in good faith believed himself to have jurisdiction. The initial need is to understand what is meant by the word "jurisdiction."

[34] When considering the ambit of the expression "jurisdiction" for present purposes, Diplock LJ in *Garthwaite v. Garthwaite* [1964] 2 All ER 233 pointed out that the word could be used in relation to the function of a judge in two different senses, when he said the followings:

> In it's narrow and strict sense, the 'jurisdiction' of a validly constituted Court connotes the limits which are imposed upon its power to hear and determine issues between persons seeking to avail themselves its process by reference:
>
> (1) to the subject matter of the issue or;
>
> (2) to the persons between whom the issue is joined or; and

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A (3) to the kind of relief sought, or to any combination of these factors.

In its wider sense it embraces also the settled practice of the Court as to the way in which it will exercise its power to hear and determine issues which fall within its 'jurisdiction' (in the B strict sense) or as to the circumstances in which it will grant a particular kind of relief which it has 'jurisdiction' (in the strict sense) to grant, including its settled practice to refuse to exercise such powers, or to grant such relief in particular circumstances.

C **[35]** From the above observations by Diplock LJ it is clear that judicial immunity covers "jurisdiction" substantively provided by law as well as "jurisdiction" in the manner, conduct or practice and procedure in which such "jurisdiction" is exercised by the judge. If there is any limit to this jurisdiction of the judge it must be provided by federal law.

D

[36] In the present case, the defendant is a judge of the High Court in Malaya. He was appointed by the Yang di-Pertuan Agong under art. 122B(i) of the Federal Constitution. Article 121(1) of the Federal Constitution prescribes the judicial power of E the High Court and therefore by inference that of the defendant's as "may be conferred by or under federal law". The Courts of Judicature Act 1964 is federal law and it governs the powers and jurisdiction of the courts. In particular regard must be given to ss. 23, 25 and the Schedule to the Courts of Judicature Act F 1964. These several provisions confer the High Court (and thereby the defendant) jurisdiction or authority to determine matters that fall within its jurisdiction (including local jurisdiction).

[37] From the above authorities cited above, it is clear that the G ambit of judicial immunity is wide. It protects a judge from all civil liabilities for all judicial and administrative acts necessary for a judge to carry out his duties effectively, so long as the judge acts in good faith. This is so even if the judge had acted "under some gross error, or ignorance, or was actuated by envy, hatred and H malice, and all uncharitableness" or he is "shown to have acted so perversely or so irrationally that what he did should not be treated as a judicial act".

[38] The only exception to judicial immunity is if the judge has accepted bribes, or is corrupt, or has perverted the course of I justice or has committed any criminal was conduct. In those circumstances, a judge may be liable to criminal prosecution and may even be removed from office, but he still cannot be liable in a civil action for damages.

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The Defendant's Acts Complained Of

[39] That being the case, the question that arises in this instance is whether the defendant's actions come within the ambit of judicial immunity.

[40] In order to answer this question, it is pertinent to analyse the plaintiff's pleaded case as per the statement of claim.

[41] The plaintiff's grievances arise from the defendant's actions as the presiding judge in Civil Suit No. S3-23-33-2005. The plaintiff was the defendant in that suit. The plaintiff's complaint against the defendant are of 'malice, case fixing, judicial misconduct and bias' against the plaintiff in conducting the civil suit.

[42] The particulars of malice, case fixing, judicial misconduct and bias are pleaded in para. 6 of the statement of claim, and in summary are as follows:

(i) the defendant took nine (9) months to dispose off an injunction application which required numerous written submissions;

(ii) the defendant constantly gave contradictory directions, the details and examples of which are contained in para. 6.3 of the statement of claim, but in brief are as follows:

(a) the defendant intentionally delayed the hearing of an *inter partes* mareva injunction application to the detriment of the plaintiff, by directing parties to file numerous written submissions on the same issue; and

(b) the defendant awarded a Property Preservation Order to the plaintiff in the said civil suit notwithstanding that the plaintiff had withdrawn its mareva injunction application;

(iii) the defendant refused to decide in favour of the plaintiff notwithstanding that the plaintiff introduced fresh facts and evidence;

(iv) the defendant refused to vary the terms of the freezing of order to allow the plaintiff to receive monies for day-to-day administration of the plaintiff company; and

(v) the defendant failed to carry out his obligations as a judge as he made two (2) contradictory orders and froze all the plaintiff's assets, thereby paralyzing the plaintiff company.

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[43] From the plaintiff's pleaded case as summarised above, there is no allegation that the defendant was corrupt, or that he accepted bribes, or that he had a personal interest in the matter. There is also no allegation of any criminal misconduct. All the allegations in the statement of claim pertain to the conduct of the defendant in carrying out his judicial functions.

[44] It is therefore clear that the plaintiff's grievances relate to the defendant's conduct in discharging his duties in his capacity as a judge, and not in his personal capacity. The acts complained of clearly fall within the ambit of the defendant's jurisdiction over a civil suit where he clearly has substantive jurisdiction and the conduct or manner in which he exercised his jurisdiction procedurally.

The Plaintiff's Remedy

[45] In *Law Hock Hua & Anor v. Timbalan Pendaftar Mahkamah Tinggi Kuala Lumpur & Anor* [2006] 4 CLJ 300, it was held at para. 20, p. 308 as follows:

> It must be borne in mind that the grant of judicial immunity by section 14 of the Court of Judicature Act 1964 does not mean that an affected party is without remedies. Immunity from civil action against a judicial authority under section 14 simply means that even though one cannot sustain a civil action against a judicial authority other remedies nevertheless remain available to the party. As observed by Lord Denning MR in the *Sirros* case, the right of appeal to reverse the decision or order, and the right to quash the decision by way of *certiorari* are some of the remedies. In fact his observations go even further to note that even when a criminal offence has been committed by a judicial authority, he can be subject to a criminal charge, but the liability in a civil action will not be and available action against him.

[46] Similarly in *Lee Phet Boon v. Hock Thai Finance Corp Bhd.* [1994] 3 CLJ 465, the court held at p. 470:

> So, with that it is clear that a declaration will not lie in regard to the two (2) impugned orders made respectively by the learned Judge and the Senior Assistant Registrar. The remedy for the Plaintiff in respect of any orders made by the Judge or the Senior Assistance Registrar in the exercise of their judicial powers lies in an appeal as spelt out under Order 56 of the Rules of the High Court and section 68 of the Court of Judicature Act 1964.

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[47] Hence, the plaintiff does have a remedy in relation to the grievances pleaded in the statement of claim. That remedy lies in an appeal (see s. 68 Court of Judicature Act).

Conclusion

[48] The importance of judicial immunity cannot be understated. In this regard, the statement by Lord Tenterden CJ in *Garnett v. Ferrand* [1827] 6 B&C 611, as quoted by Lord Denning MR in *Sirros v. Moore & Ors* [1975] 1 QB 118 at p. 132, aptly summarises the underlying importance of judicial immunity, thus:

> This freedom from action and question at the suit of an individual is given by the law to the judges, not so much for their own sake as for the sake of the public, and for the advancement of justice, that being free from actions, they may be free in thought and independent in judgment, as all who are to administer justice ought to be.

[49] The Hon. Mr. Justice P.N. Bhagwati, Former Chief Justice of India in an article entitled *"The Challenge to the Profession by the Judiciary"* [1987] 2 CLJ 101 @ p. 103 said:

> Each attack on a Judge for a decision given by him is an attack on the independence of the judiciary, because it represents an attempt on the part of those who indulge in such criticisms to coerce judicial conformity with their own preconceptions and thereby influence the decision making process. It is essential in a country governed by a rule of law that every decision must be made under the rule of law and not under the pressure of one group or another, no matter how sincerely motivated. If a Judge is to be in fear of personal criticism by political or pressure groups or other individuals while deciding a case, it would most certainly undermine the independence of the judiciary.

[50] The court is in full agreement with the learned Senior Federal Counsel, Puan Asmabi bte Mohamad, in her submissions:

> It further behoves on this Court to have regard here to the public policy and interest involved in the principle of judicial immunity. The Defendant as a Judge was clearly acting judicially in exercise of his judicial duty. Actions of this nature should never be allowed to see the light of day "not because the Judge has any privilege to make mistakes or to do wrong. It is so that he should be able to do his duty with complete independence and free from fear. (see *Sirros v. Moore* @ page 125 DBOA).

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[51] The court is also in full agreement with the learned counsel for the Bar Council Mr. Robert Lazar (Tetuan Shearn Delamore & Co.) in his submission:

> A judge must be able to perform his duties with complete independence and freedom from fear. Only then will members of the public have confidence in the judiciary and the administration of justice. This is the hallmark of all democratic societies in the world. Malaysia is no exception.

Decision Of The Court

[52] On the above considerations the court is satisfied that the plaintiff's action against the defendant discloses no cause of action; scandalous, frivolous and vexatious. It is also an abuse of the process of the court. The court also finds that this is the most appropriate case for the court to exercise its judicial discretion to struck out the case at this stage of the proceedings and not to allow it to go for full trial.

[53] It is crystal clear that the plaintiff's claim is doomed to fail right from the outset. To let the claim to proceed for trial would mean the court is allowing itself to be a party to the absurdity created by the plaintiff. It will not only embarrass the defendant as a judge, but also the whole judicial system or administration of justice of the country. No judicial system can survive if claim of this nature is allowed to take its seat. In this regard, the court is very pleased for the effort taken by the Malaysia Bar Council to voluntarily come forward as 'a friend of the court' *(amicus curiae)* to assist and enlighten the court on the issue and to make it's stand on it. The stand taken by the Bar Council in this matter is sound and clear ie, the defendant's actions and conduct in this case fall squarely within the ambit of judicial immunity and that this suit is without basis and merit, and is unsustainable. The Bar Council has clearly done it's part in protecting and safeguarding the administration of the judicial system of the country, one of the main pillers of its functions under the Legal Profession Act 1976. It is our sincere hope that individual lawyers and solicitors who are members of the Bar Council, would do the same to help in maintaining and preserving the integrity and independence of the judicial system.

[54] Therefore, the defendant's application to strike out the plaintiff's writ and statement of claim (*vide* encl. 11) is allowed with costs.

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

AFIDAVIT SOKONGAN

(Di bawah Aturan 18 Kaedah 19(a) dan/atau (b) dan atau (d) dan Aturan 92 Kaedah 4 Kaedah-Kaedah Mahkamah 2012)

1. Saya, Muhammad Hafiz Bin Ahmad (NO. K/P: 790414-14-5394) seorang warganegara Malaysia yang cukup umur dan mempunyai alamat penyampaian di 18, Jalan Pandan 5/3, Taman Pandan Jaya, 55100 Kuala Lumpur, Wilayah Persekutuan dengan sesungguhnya berikrar dan menyatakan seperti berikut:-

2. Saya adalah seorang Pengarah Urusan dalam Defendan yang dinamakan di atas dalam tindakan ini dan mempunyai kuasa dan pengetahuan untuk mengikrarkan afidavit ini.

3. Saya menyatakan bahawa segala fakta-fakta yang dinyatakan di dalam afidavit ini adalah di dalam pengetahuan saya yang mempunyai akses terhadapnya.

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4. Saya telah dinasihatkan oleh peguamcara saya bahawa afidavit ini diikrarkan bagi menyokong permohonan saya di bawah Aturan 18 kaedah 19 (a) atau (b) dan (d) Kaedah-Kaedah Mahkamah 2012.

5. Saya memohon Mahkamah Yang Mulia ini merujuk kepada Writ dan Pernyataan Tuntutan Plaintif bertarikh 18.6.2021 yang telah difailkan dalam tindakan ini. Kertas-kertas kausa lain yang telah difailkan disini adalah seperti berikut:-

   a) Pembelaan Defendan bertarikh 16.8.2021;

   b) Jawapan kepada Pembelaan Defendan bertarikh 20.9.2021; dan

   c) Balasan kepada Jawapan Plaintif bertarikh 6.10.2021.

6. Saya ingin menyatakan bahawa Defendan telah mengeluarkan satu surat bertarikh 26.10.2020 untuk menerima perletakan jawatan Plaintif sebagai pekerja di syarikat Defendan. Pada dasarnya surat tersebut adalah satu perjanjian penyelesaian yang muktamad tertakluk kepada terma-terma yang terkandung secara keseluruhan antara Defendan dan Plaintif yang telah dipersetujui dan dimeterai di antara Defendan selaku majikan dan Plaintif selaku pekerja ("**Surat Penyelesaian**").

   Salinan Surat Penyelesaian bertarikh 26.10.2020 dikemukakan di sini sebagai ekshibit **"MH-1".**

7. Pada setiap masa yang material Plaintif bukan merupakan rakan niaga, pemegang saham/taruh atau mempunyai kepentingan dalam Defendan. Saya juga dengan tegas sekali lagi dalam permohonan di sini menyatakan bahawa pada setiap masa yang material Plaintif adalah

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merupakan seorang pekerja yang tertakluk kepada suratcara-suratcara berikut:

(i) Surat Lantikan bertarikh 10.7.2017 antara Defendan dan Plaintif;

(ii) Surat Pengesahan bertarikh 17.7.2017; dan

(iii) *Employee Handbook* Defendan.

Salinan surat Lantikan bertarikh 10.7.2021, Surat Pengesahan bertaikh 17.07.2017 dan Employee Handbook Defendan, dikemukakan di sini secara kolektif sebagai ekshibit **"MH-2".**

8. Saya merujuk kepada Surat Penyelesaian, di mana perenggan 1 jelas menunjukkan bahawa:

i. Defendan bersetuju untuk membayar kepada Plaintif ***50% keuntungan bersih*** daripada projek-projek Curtiss Wright, Malakoff, SPV Ball Valve dan GWC Italia ("**Projek-Projek**"), yang mana Defendan telahpun menerima bayaran penuh;

ii. Defendan bersetuju untuk membayar kepada Plaintif ***40% keuntungan bersih*** daripada Projek-Projek tersebut, yang mana Defendan ***masih belum*** menerima bayaran penuh;

iii. Satu Penyata Akaun akan disediakan oleh auditor bebas yang dilantik dengan persetujuan kedua belah pihak; dan

iv. Penyata Akaun tersebut adalah mutakhir dan muktamad.

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9. Memandangkan bayaran kepada Plaintif tertakluk kepada Penyata Akaun yang akan disediakan, saya sesungguhnya percaya bahawa tuntutan Plaintif di sini adalah pra-matang. Ini adalah kerana Penyata Akaun hanya boleh disediakan dengan muktamad sesudah semua bayaran diterima oleh Defendan bagi Projek-Projek tersebut. Semasa tuntutan Plaintif di buat, Defendan masih belum menerima bayaran penuh bagi Projek-Projek tersebut. Dengan itu, keuntungan bersih 40% bagi Projek-Projek tersebut masih belum dapat dipastikan.

10. Oleh yang demikian, semasa tuntutan Plaintif di sini difailkan, kausa tindakan Plaintif tidak wujud. Saya sesungguhnya percaya bahawa Plaintif tidak mempunyai kausa tindakan yang munasabah kerana tindakan ini difailkan secara pra-matang.

11. Saya sesungguhnya percaya bahawa tuntutan Plaintif untuk mengaudit akaun Defendan tidak berasas dan munasabah, memandangkan Plaintif tidak berhak ke atas semua keuntungan yang diperolehi Defendan. Kepentingan Plaintif terhad kepada Projek-Projek yang dinyatakan sahaja. Tambahan pula, jelas bahawa belum ada jumlah termaktub yang boleh ditunjukkan kepada Plaintif kerana ada bayaran yang belum diterima bagi Projek-Projek tersebut. Tuntutan Plaintif di sini jelas tidak berasas dan munasabah dan berniat untuk memperolehi maklumat kewangan sulit Defendan secara salah. Saya telah dinasihati peguamcara Defendan dan sesungguhnya percaya ini adalah satu penyalahgunaan proses Mahkamah.

12. Berikutan itu, tuntutan alternatif Plaintif untuk sejumlah RM3,511,000.00, adalah satu tuntutan yang tidak berasas. Saya percaya adalah mustahil untuk Plaintif membuat pengiraan yang tepat memandangkan Penyata Akaun masih belum muktamad, dan Defendan

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masih belum menerima pembayaran penuh bagi Projek-Projek tersebut. Sebarang pengiraan hanyalah anggaran semata-mata, dan bersifat pra-matang.

13. Saya dengan tegas juga menyatakan bahawa jumlah RM3,511,000.00 yag dituntut itu gagal dibutirkan oleh Plaintif. Surat Penyelesaian jelas memperuntukkan bahawa Plaintif hanya berhak ke atas sebahagian daripada keuntungan bersih bagi Projek-Projek tersebut di atas. Walaubagaimanapun, dalam tuntutan Plaintif, beliau telah gagal memplidkan tuntutan berkenaan dengan jenis projek yang dituntut, serta gagal memberi butiran dan cara pengiraan amaun yang dituntut. Ini adalah kerana tuntutan Plaintif, jika difahami, sepatutnya adalah bedasarkan rentetan peristiwa projek-projek, dan bukan satu tuntutan '*lump sum*'.

14. Saya sesungguhnya percaya, pliding Plaintif gagal membutirkan tuntutan ke atas jenis-jenis projek, amaun bagi setiap projek dan pengiraan bagi setiap projek tersebut. Saya percaya kegagalan ini menyebabkan tuntutan Plaintif menjadi satu tuntutan yang tidak berasas kerana tidak mempunyai kausa tindakan yang jelas, dan ini adalah di luar aturan undang-undang terpakai.

15. Tanpa perincian dalam tindakan di sini, Plaintif di sini cuba untuk memperkayakan diri sendiri secara salah ('*unjust enrichment*') apabila ia cuba menuntut wang yang tidak patut diterima olehnya, dan bukan pada landasan komersial mahupun berasaskan undang-undang.

16. Saya menyatakan dengan tegas bahawa tindakan Plaintif di sini juga adalah sengaja untuk memprejudis Defendan. Plaintif menuntut bayaran di mana kausa tindakan masih belum wujud, tidak munasabah

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dan tidak jelas. Plaintif turut menuntut untuk memeriksa akaun Defendan dengan alegasi-alegasi yang berat tanpa butiran yang jelas atas alasan yang tidak munasabah.

17. Saya sesungguhnya percaya bahawa jelas tuntutan Plaintif di sini untuk kebenaran memeriksa Akaun Defendan dan/atau bayaran RM3,511,000.00:

a) adalah pra-matang dan tidak mendedahkan apa-apa kausa tindakan yang munasabah; atau

b) ianya mengaibkan, remeh atau menyusahkan; dan

c) ianya menyalahgunakan kuasa Mahkamah yang Mulia ini.

18. Oleh yang demikian saya dengan rendah diri memohon Mahkamah Yang Mulia perintah seperti dipohon di dalam permohonan Defendan di sini.

Berkenaan dengan affidavit oleh Deponen]
Bernama MUHAMMAD HAFIZ BIN AHMAD]
KUALA LUMPUR]
WILAYAH PERSEKUTUAN]
Diangkat sumpah pada 15 OCT 2021]

PESURUHJAYA SUMPAH
W 715
MOHD FAIZAL BIN MOHD ARIS
BC/M/1788
01.01.2021-31.12.2023
MALAYSIA

Tingkat 2,
No. 22, Jalan Setiawangsa 10,
Taman Setiawangsa,
54200 Kuala Lumpur.
Tel: 03-4252 3640

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AFIDAVIT SOKONGAN ini difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan Kedua yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03.4131.1557 Faks : 03.4141.8824

Email : law@fadhlisutris.com

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

SIJIL PERAKUAN EKSHIBIT

Saya dengan ini memperakui yang berikut ini adalah ekshibit yang ditanda **"MH-1"** yang dirujuk dalam AFIDAVIT SOKONGAN oleh Muhammad Hafiz Bin Ahmad (NO. K/P: 790414-14-5394) yang diikrarkan di hadapan saya pada haribulan Oktober, 2021.

15 OCT 2021

Di hadapan saya,

Tingkat 2,
No. 22, Jalan Setiawangsa 10,
Taman Setiawangsa,
54200 Kuala Lumpur.
Tel: 03-4252 3640

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ENE PETRO SERVICES SDN BHD *(1125108-T)*
Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

26th October 2020

ORIGINAL

PRIVATE AND CONFIDENTIAL

To: En. Ahmad Ridzuan Ahmad Rusli

Dear Sir

Re: Acceptance of Resignation Notice

It is with great regret that we, ENE PETRO SERVICES SDN BHD ("Company") hereby formally acknowledge receipt of your verbal resignation notice served on us on 28th September 2020 during the management meeting and with immediate effect we have accepted your resignation notice and your final day will be on 30th October 2020 ("Final Day").

We are glad to inform you that during the notice period, the Company is granting you "Gardening Leave" in lieu of such notice in which you are no longer required to report to work starting from 5th October 2020.

During the Gardening Leave, you will still be paid the following:

i) your basic salary up to the Final Day; and
ii) any expense & project claim submitted and incurred until September 2020.

As such, both parties voluntarily agree to the following terms:

1. as a gesture of appreciation in recognition of your work, the Company agrees to award 50% of Net Profit based on payment received ("Full Payment") *and 40% of Net Profit based on payment not received ("pending Payment")* generated from Curtiss Wright, Malakoff and *GWC Italia* Businesses during your employment the amount of which shall be calculated and stated in an account statement prepared *by third party auditor to be agreed by both parties* and such statement shall be final and conclusive;
2. as a token of good faith, the Company will pay an advance payment of RM100,000.00 ("Advance Payment") to you and such payment shall be deducted from the Full Payment and the balance thereof shall be referred to as "Balance Payment";
3. a memorandum of agreement ("Memorandum of Agreement") will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company, which shall be executed by the Company and you in relation to confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;
4. you shall not, at any time disclose to any person any information as to the trade secrets, technical processes and data, practices, business dealing or affairs of the company or any of its clients or as to any other matter which may come to his or her knowledge by reason of your employment;
5. you shall not remove from the Company's premises any paper, notes, letters, telexes, calculations, drawings and any other data/documents whatsoever belonging to or in the possession of the Company and, the date of this writing, you shall return to the Company all such data/documents to the Company;
6. you shall not engage in any detrimental conduct that is contrary or harmful to the interest of the Company or any of its subsidiaries, including, but not limited to, (i) its properties, (ii) disclosing or misusing any confidential information or material concerning the Company or any of its subsidiaries, (iii) participating in a hostile takeover attempt of the Company, (iv) any

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Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

kind of act , directly or indirectly, damaging to the Company's reputation and image; and (v) engaging in an act of fraud or intentional misconduct; and

7. Your failure to comply with the conditions stated in this Letter shall relieve the Company from any obligation to fulfill the payment mention in this Letter and in such event any payment has been made, you shall forthwith refund all the monies received and the Company may proceed with any legal recourse available to the Company under the law to protect the its interest and to claim any losses pertaining hereto.

In consideration of the Gardening Leave, you have agreed that:

1) you have no rights, interests, titles and benefits whatsoever in the Company and its subsidiaries save for the Advance Payment and the Balance Payment;

2) you have no rights whatsoever to claim, inter alia, any profits, refund, damages and/or losses whatsoever against the Company, its subsidiaries and/or its agent save for the Advance Payment and the Balance Payment; and

3) you have accepted the Advance Payment as full and final settlement save for the Advance Payment and the Balance Payment.

For the avoidance of doubt, the Balance Payment will be released to you once the Memorandum of Agreement has been executed by both parties and the statement of account has been prepared by the accountant of the Company.

We reserve the right to make announcements or statements to any of the employees, customers, clients, professional contacts of the Company, or any Group Company or other third parties, concerning you and your departure from the Company, as we think fit.

You are requested to return the access card and laptop before you leave today.

We thank you for all the contributions you have made to the Company.

Yours Sincerely,

ENE PETRO SERVICES SDN BHD

.....
MUHAMMAD HAFIZ AHMAD
Managing Director

S/N AQ6ClLjMykOUCZHI2Scd7w
**Note : Serial number will be used to verify the originality of this document via eFILING portal

ENE PETRO SERVICES SDN BHD *(1125108-T)*
Suite 7.03A, North Block, The Ampwalk,
218 Jalan Ampang, 50450 Kuala Lumpur.
Tel: +603-2181 3145 Fax: +603-2181 3145

I, Ahmad Ridzuan Ahmad Rusli (NRIC No. 791221-01-6465) hereby expressly, irrevocably and unconditionally agree with the terms and conditions embodied in this Letter.

.....

Ahmad Ridzuan Ahmad Rusli
NRIC: 791221-01-6465
Position: Business Development Manager

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

SIJIL PERAKUAN EKSHIBIT

Saya dengan ini memperakui yang berikut ini adalah ekshibit yang ditanda **"MH-2"** yang dirujuk dalam AFIDAVIT SOKONGAN oleh Muhammad Hafiz Bin Ahmad (NO. K/P: 790414-14-5394) yang diikrarkan di hadapan saya pada haribulan Oktober, 2021.

15 OCT 2021

Di hadapan saya,

PESURUHJAYA SUMPAH
W 715
MOHD FAIZAL BIN MOHD ARIS
BC/M/1788
01.01.2021-31.12.2023
MALAYSIA

Tingkat 2,
No. 22, Jalan Setiawangsa 10,
Taman Setiawangsa,
54200 Kuala Lumpur.
Tel: 03-4252 3640

S/N AQ6ClLjMykOUCZHI2Scd7w
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ENE Petro Services Sdn. Bhd
Suite 7.03A, North Block,
The Ampwalk, 218 Jalan Ampang,
50450 Kuala Lumpur

10 July 2017

Dear Ahmad Ridzuan Ahmad Rusli,

RE : LETTER OF APPOINTMENT

We refer to the recent discussion and subsequent telephone conversation, and are pleased to offer you the position of **Sales Director** with our company.

The terms and conditions of employment are as follows:-

1) Your commencing salary shall be [redacted].

2) You will commence work on Monday, 7th August 2017.

3) This contract of service may be terminated by either party giving three (3) months notice or payment in lieu of notice.

4) Your working hours will be from 9.00 am to 6.00 pm (Monday to Friday) on the average of forty hours per week.

5) You shall not disclose or divulge at any time either during the currency of this contract or thereafter, any secrets, transactions or information in or relative to our business which may come within your knowledge or possession in the course of your employment by our company and which should be disclosed, divulged or made public save in the course of your duties.

We trust that you will find the above terms and conditions agreeable and to your satisfaction.
Please sign the duplicate copy of this letter as acceptance of the terms and conditions and return it to us within 7 days upon receipt of this letter.

We would like to wish you success in your new assignment with our company and we are confident that with hard work and undivided attention to your responsibilities, you will make a positive contribution to the growth of our Company.

Yours faithfully,
ENE PETRO SERVICES SDN BHD

MUHAMMAD HAFIZ AHMAD
Managing Director

I, AHMAD RIDZUAN .....agree to the terms and conditions of employment embodied in the above letter and accept the position offered

.....
SIGNATURE OF EMPLOYEE

10/7/2017
.....
DATE

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FIRST SCHEDULE

ANNUAL LEAVE

1. Annual leave shall be taken at such time and period as the company shall determine.

2. If the company decides to have an annual shut-down such period shall be considered as part of the total paid annual leave to which the employee is entitled.

3. The employee shall be entitled to one more day of paid leave for every year of service completed, after the first twelve months of continuous service but subject to a maximum of twenty one (21) days.

SECOND SCHEDULE

MEDICAL BENEFITS

1. CONSULTATION OF COMPANY'S PHYSICIAN

The employee is entitled to consult the company's physician and to consult a specialist medical consultant practicing in Kuala Lumpur recommended by the company's physician subject to the limits as established by the company from time to time. The costs of such consultations and medicine prescribed shall be borne by the company.

YEAR OF SERVICE	MEDICAL CLAIM LIMIT
1st year service	RM2000
2nd year service	RM 3000
3rd year service	RM 4000

Additional RM 500 for additional year of service to the company.

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5. TERMINATION OF EMPLOYMENT

5.1 TERMINATION

The employment of an employee may be terminated:

(a) by either party hereto, giving the other three (3) months notice in writing of that party's intention to terminate or salary in lieu thereof;

(b) by the company without notice in the event of serious misconduct or persistent un-punctuality, neglect of duty or breach of any rules or regulations, for the time being, made by the company or breach of any of the terms and conditions of this agreement;

(c) by the company, without notice, if in the opinion of the company, on the advice of the company's physician given subsequent to the certification by the company's physician pursuant to Clause 2 (b) hereof, the employee, through illness or accident certified by the Company's physician as not to have been caused by his or her own misconduct, is unable to perform his or her duties fully. In such as event, the employee shall be paid in accordance to local regulations.

6. UNDERTAKING

(a) During his or her employment, the employee shall not engage in any other employment or business, whether in competition with the company or not, without the prior approval of the company.

(b) The employee shall not, at any time during his or her employment hereunder (except so far as necessary and proper in the course of his or her employment) or afterwards, disclose to any person any information as to the trade secrets, technical processes and data, practices, business dealing or affairs of the company or any of its clients or as to any other matter which may come to his or her knowledge by reason of his or her employment.

(c) The employee shall not remove from the company's premises any paper, notes, letters, telexes, calculations, drawings and any other documents whatsoever belonging to or in the possession of the company and, on the termination of his or her employment, shall return to the company all such documents to the company.

7. ADDITIONAL TERMS AND CONDITIONS

(a) The employee shall comply with the rules and regulations for the time being, of the company which rules and regulations the company reserves the right to alter from time to time, as the company shall deem fit.

(b) This agreement shall be governed by, and be constructed in accordance with the laws of the country and the parties hereto, hereby submit to the exclusive jurisdiction of the courts of the country.

(c) If any provision contained in this agreement is or shall be contrary to the laws of country and is or shall be unenforceable according to law, then, such provision shall cease to be valid without prejudice to the other provisions contained in this agreement.

(d) Any variation to the terms and conditions hereof and any amendments made to this agreement shall not be valid or enforceable unless made in writing and executed by the parties hereto.

IN WITNESS HEREOF the parties hereto have hereunto set their hands the days and year first written above.

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THIS AGREEMENT IS MADE ON THE 10th of July 2016, between ENE Petro Services SDN BHD, a company incorporated in Malaysia and having its office at Suite 7.03A, North Block The Ampwalk, 218 Jalan Ampang, 50450 Kuala Lumpur, (hereinafter called "the company" which expression shall be deemed to include its successors and assigns) and Ahmad Ridzuan Ahmad Rusli hereinafter called "the employee" of the other part.
WHEREBY IT IS AGREED as follows:-

1. ASSIGNMENT
The company shall employ the employee and the employee shall serve the company initially in the capacity of and other related services and upon the terms and subject to the conditions herein contained.

2. DATE OF EMPLOYMENT
The employment of the employee will commence on 7th August 2017 and shall continue until terminated in accordance with the provisions of this Agreement.

3. WORKING HOURS

(a) The employee shall work on the average for forty (40) hours per week and working hours shall be fixed by the company from time to time, at its sole discretion.

4. REMUNERATION AND BENEFITS

(a) SALARY
The company shall pay the employee a basic monthly salary at the rate of **(Malaysian Ringgit: Eighteen Thousand Five Hundred Only), RM 18,500.00,** payable in arrears not later than on the last day of each calendar month and, unless otherwise provided for in this agreement, the employee shall not be entitled to any other allowance except at the discretion of the company or as may be provided for in the company regulations for the time being.

(b) EMPLOYEES PROVIDENT FUND
The company shall comply fully with valid regulation of EPF in terms of Employer's contribution.

(c) PAID ANNUAL LEAVE
The employee shall be entitled initially to paid annual leave of Eighteen (18) days for every twelve (12) months continuous service and if he or she works for less than twelve (12) months he or she shall be entitled to pro-rata paid leave based on the number of completed months service in addition to all statutory holidays and in accordance with the terms set out in the First Schedule to this Agreement.

(d) SICK LEAVE BENEFIT
An aggregate of twelve (12) days paid sick leave in each year, on each occasion of a medical issued by the physician.

(e) MEDICAL BENEFIT

The employee shall be entitled to medical benefits in accordance with the terms set out in the Second Schedule to this Agreement.

(f) INCOME TAX
You will be responsible for payment of your personal income tax or any taxes incurred in Malaysia.

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ENE Petro Services Sdn. Bhd
Suite 7.03A, North Block,
The Ampwalk, 218 Jalan Ampang,
50450 Kuala Lumpur

17 July 2017

Dear Ahmad Ridzuan Ahmad Rusli

RE : CONFIRMATION ON APPOINTMENT AS BUSINESS DEVELOPMENT MANAGER

We refer to our recent discussion,

Due to your commitment to your current employer, we hereby agree that you shall only commence your work with us on 2nd February 2018.

All other terms in the letter of appointment dated 10 July 2017 shall only be effective from the date of your work commencement.

Yours faithfully,
ENE PETRO SERVICES SDN BHD

ENE Petro Services Sdn Bhd 1125108-T

MUHAMMAD HAFIZ AHMAD
Managing Director

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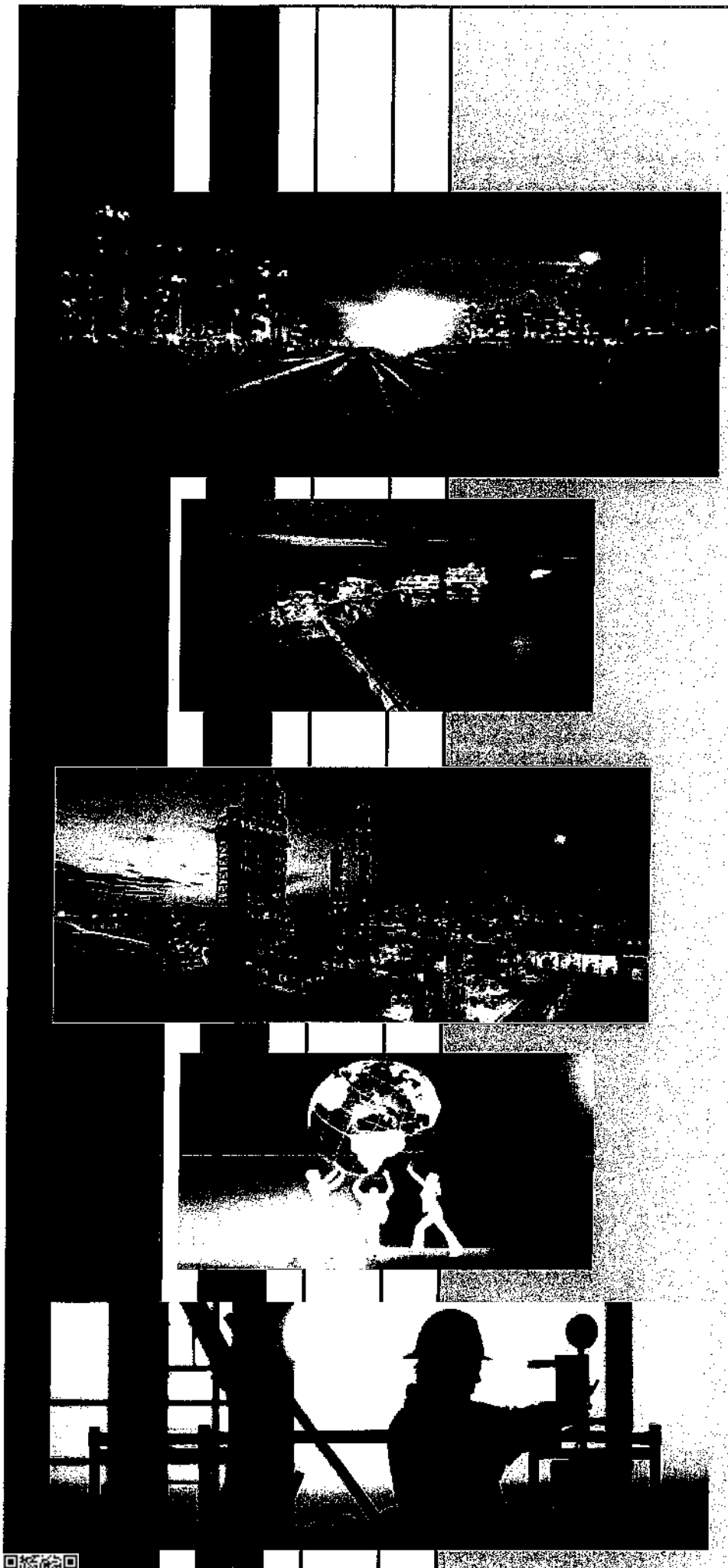

ENE PETRO SERVICES SDN BHD

EMPLOYEE HANDBOOK

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INTRODUCTION

This Employee Handbook outlines the latest status of the terms and conditions of employment to all full-time, permanent & contract Employees of **ENE Petro Services Sdn Bhd.**

It serves as a standard guideline and reference to increase understanding, to eliminate the need for personal decisions on matters of Company policy and helps to ensure uniformity throughout the Company.

This Employee Handbook will be provided to all staffs on commencement of employment and will form as part of the employment contract. Where conditions in this Employee Handbook differ from those set out in the letter of offer, the conditions in the letter of offer will apply.

The Company reserves the rights to introduce, amend, modify or annul any terms and conditions at any time during its operation to ensure its competitiveness in the market. Such amendment shall be made known to all staffs through circulars signed by the MD / HR Manager and such circular shall deem to form as part of this Employee Handbook.

This Employee Handbook is the property of the Company and is strictly confidential. This handbook must be returned to the Human Resource Department upon leaving the services of the Company.

Further information on the contents of the Handbook should be directed to the Human Resources Department for further clarification.

THE COMPANY RESERVES ALL THE RIGHTS ON THE REGULATIONS AND POLICIES STATED IN THIS EMPLOYEE HANDBOOK. THUS, NO PARTS OF THIS HANDBOOK ARE TO BE USED FOR ANY LEGAL ACTIONS AGAINST THE COMPANY.

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1.0 DEFINITIONS

In this Employee Handbook, the following definition shall apply:

Company	Company means **ENE Petro Services Sdn Bhd**
Employee	Employee means any person who is categorized under a Permanent or Contract staff and is employed under a Contract of Employment with the Company.
Family	Family shall include: 1 Legal wife and dependant children of a male Employee, or 2 Legal husband and dependant children of a female Employee
Children	An Employee's natural, legally adopted and step children who are unmarried and unemployed up to eighteen (18) years of age *and up to twenty-three (23) years of age for children undergoing full time education (up to first degree only).*
Day	Day is defined as 24 hours from midnight to midnight or a period of 24 hours from any point of time.
Unpaid Leave	Unpaid leave means leave taken by Employees without any compensation given by the Company.
Misconduct	Misconduct is defined as an act of commission or omission, which is inconsistent with the fulfillment of the expressed or implied conditions of the Employee's contract of service.
Breach of Contract	Where a party to a contract fails to fulfill his/her obligations as per the Contract of Employment, either expressed or implied.
Statutory Deduction	Deduction from an Employee's wages that are sanctioned by law e.g EPF contribution and Income Tax etc.
Inefficiency	Inefficiency means performance of work, which is below the Company requirements, repeated over a period of time.
Senior Executive	Senior Engineer, Senior Finance Executive, Senior HR Executive and Senior Proposal Engineer.
Executive	Engineers, Design / Document Control Coordinators, Document Control Executive, PDMS Administrator, Senior Designer, HR Executive, , Finance Executive, Accounts Executive, Secretary, Procurement Executive, IT Executive, Administration Executive and Business Development Executive.
Non- Executive	Technician, Designer, Drafter, Project Secretary, Administration Clerk, Accounts Clerk, HR Clerk, Tea Lady, Technical Assistant, Receptionist and Document Controller.
Technical Executive	Procurement Engineer, Process Engineer, Electrical Engineer, Planning Engineer, Project Engineer, QA Engineer, Civil / Structural Engineer, 3D Modeler, Mechanical / Piping Engineer, Instrumentation Engineer, PDMS Engineer, Design Coordinator, PDMS Administrator and Senior Designer.
Non-Tech Executive	HR Executive, Finance Executive, Account Executive, CEO's Secretary, Operation Secretary, Librarian, Procurement Executive, IT Executive, Administration Executive and Business Development Executive.

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2.0 TERMS AND CONDITIONS OF EMPLOYMENT

2.1. APPOINTMENT

All employment shall be in accordance with the Employment Ordinance and the Company's policy. All Employees hired shall be issued with a letter of employment or contract, which will state all the terms and conditions of employment with the Company.

The letter of employment may make reference to this Employee Handbook. Where the content of the letter of employment differ from this Employee Handbook, the condition in the letter of employment will apply.

Any queries relating to the terms and conditions of employment should be raised before formal acceptance of the offer. Staff may refer to Job Description (JD) in the QMS for job scope guidelines.

2.2 PROBATION

A permanent Employee with probation period stated in his/her appointment letter will be confirmed when he / she has successfully undergone his/her probationary period.

The normal period of probation for a new permanently hired Employee will be six (6) months. At the discretion of Company's management, the probationary period may be reduced or extended accordingly.

The Employee will be notified in writing by the Company on his/her confirmation.

In the event the Employee fails to meet the minimum level of performance after the extended period, the Employee shall not be confirmed and his/her services shall be terminated.

During probation period, either the Employee or the Company may terminate the employment by giving written notice or by paying salary in lieu of such notice period as follows:

CATEGORY	***NOTICE PERIOD***
Senior Executive *Technical Executive*	*1 month*
Non-Tech Executive *Non-Executive*	*2 weeks*

2.3 CONFIRMATION

Employee whom has been converted from contract to permanent will be notified in writing by the Company on his/her confirmation.

2.4 PROMOTION

The Company, at its sole discretion, may promote suitable candidates to any position as it deems fit in recognition of Employees' performance and to assist in the realization of Employees' career potential.

Priority for promotion will be given to internal candidates. The Company will only fill the position from external sources if no existing Employees have been found suitable to fill such vacancies.

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2.5 RETIREMENT

The retirement age is the date on which the Employee attains the age of 60 years old effective 1st July, 2013.

Re-employment after an Employee's retirement with the Company shall be depending on requirement and sole discretion by the Company. This employment continuation shall be on a contractual basis.

Upon continuation of the employment after retirement, an Employee is required to adhere to any statutory deduction, which is governed under the employment law such as EPF, SOCSO, IRB and etc.

2.6 PROJECT ASSIGNMENT / TRANSFER

An Employee who is assigned on a project, which will require him / her to reside in other office than his/her normal work location, will be informed by the management on the terms and conditions of his/her assignment.

An Employee may be transferred to a new department or office whether on a temporary or permanent basis and will be given a transfer letter at the time of his/her transfer.

2.7 BOARD OF ENGINEERS

Malaysian Engineers shall register with the Board of Engineers (BOE) within three (3) months of their employment. The Company shall reimburse the cost of the registration.

2.8 PASSPORT, VISA AND WORK PERMIT/EMPLOYMENT PASS

The Company shall subsidize up to a maximum of RM300.00 against original receipts for a 32 pages of Malaysia International Passport Processing fee with validity period of 5 years and the cost for passport photo.

This is applicable to new or renewal of international passport should an Employee is required to travel overseas due to business trip or project assignment.

The Company shall pay all associated cost for renewal of Visa and Work Permit/Employment Pass for Regional and Expatriate Staff to work in the Company. In the event the Employee opts to apply for Resident Pass (RP), the cost shall be borne by the Employee.

The Company shall also pay for all associated cost for obtaining Visa and / or Work Permit for those who are required to travel on Company business, training or work on Company assignment.

2.9 DUAL ENTITLEMENT

An Employee and Spouse employed by the Company shall not be provided dual Married Benefits.

Spouse of a higher grade shall receive the Married Status Benefits while the Spouse of a lower grade shall receive the Single Status Benefits. As such, the children shall be registered under the spouse with higher grade.

There will be no duplication of Medical Insurance and Annual Air ticket as the Spouse on Married Status Benefit shall automatically eligible for such benefits.

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3.0 WORKING HOURS AND OVERTIME

3.1 PUBLIC HOLIDAYS

The Company shall observe all gazette Federal and State public holidays with the following condition:

a. If a public holiday falls on Sunday, then the next working day shall be declared as a holiday in substitution thereof

b. If a public holiday falls within the period when an Employee is on annual leave, the Employee will receive for each such holiday an additional day's leave which will be taken as an extension to the annual leave.

c. If the Employee is based in the client's office, it should be in line with the client practice.

Due to the nature of the Company business, it may be necessary for some of the Employees to work on a holiday. If this occurs, at Company's discretion, eligible Employees will be substituted with a replacement off day or paid overtime for work done in accordance with the prevailing rates applicable.

3.2 WORKING HOURS

All Employees are required to observe Company official working hours, which may vary depending on the location of the office. The official working hours are as follows:

a. Kuala Lumpur Office

DAY	WORKING HOURS
Monday – Friday	8.00 a.m. to 5.15 p.m.
Lunch Break (Monday –Thursday)	12.30 p.m. to 1.30 p.m.
Lunch Break (Friday)	12.30 p.m. to 2.30 p.m.

Flexible start time is between 7.45 a.m. to 9.00 a.m. Employees are to start work not later than 9.00 am

Employee must complete a minimum of 8.15 working hours in a day.

All Employees are prohibited from leaving the office after clocking in for breakfast, morning coffee break or afternoon tea break.

Notwithstanding to the above, it is recognized that pending on operational needs, some Employees may have the working hours staggered accordingly, including shift work. The management or the Employee's supervisor will communicate this requirement directly to the Employee concerned.

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3.3 ABSENTEEISM

Regular attendance and punctuality is essential. Advance notice of absence should be given to the superior. When circumstances make this impossible, the Employee should notify his/her superior at the earliest possible opportunity.

Absence without notification will be deemed as emergency leave and will be deducted from the annual leave entitlement. If the Employee is absent for **more than two (2) days (48 hours) without prior approval** from the immediate superior and without reasonable grounds, the Employee will be **deemed to be in breach of his/her Contract of Employment and may be liable for termination.**

3.4 OVERTIME

Overtime is defined as work performed outside the normal official working hours inclusive of traveling hours performed after 6 pm for KLHO and after 5 pm for MDO. Overtime rate per hour will be paid as follows:

SALARY RANGE	HEAD OFFICE	CLIENT OFFICE
RM 1,500 and below	OT = NR x 1.2	OT = NR x 1.2
RM 1,501 and above	OT = NR x 1.0 or RM 40/hr (which ever lower)	OT = NR x 1.0 or RM 40/hr or Fixed Rate (which ever lower)

Normal Rate (NR) is calculated as follows:

Normal Rate, NR =	$\frac{\textit{Base Salary x 12 month}}{40 \times 52}$

All technical and non-technical staffs are entitled for overtime. Staffs are required to submit Overtime Request and obtain approval from the approval parties prior to performing any overtime works.

Only approved overtime hours by the client / Project Manager / Manager of Department will be paid. Overtime excludes time taken off for meals.

1. Weekdays: At the request of the Company, the in-house overtime can only be done to a maximum of 4 hours/day during normal working day. Prior written approval must be obtained from the respective Manager of Department and Project Manager.
2. Sat/Sun/Public Holiday: Overtime entitlement shall be at a maximum of 10 hours only. Overtime claim which is more than 5 hours to be deducted by 1 hour for time break allocation. Minimum overtime claim is 1 hour and odd number of hours shall be rounded down to the nearest hour.

All current month overtime must be approved by the Manager of Department by 15th of the following month or else the overtime shall be forfeited and shall not be paid to the Employee.

It should be noted that continuation of unfinished routine work after normal working hours is not eligible for overtime. A practice of approving overtime after the overtime is performed is not allowed.

4.0 LEAVES

4.1. ANNUAL LEAVE

An Employee is entitled to annual leave as follows:

	PERMANENT / CONTRACT
1st year of service:	
Senior Executive & Above	18 days
Executive & Below	14 days
2nd year of service:	
Senior Executive & Above	19 days
Executive & Below	15 days
Subsequent year of service	Additional 1 day
Senior Executive & Above	Up to 21 days
Executive & Below	Up to 18 days

a. Application for Annual Leave should be in the aggregate of either half (½) or one (1) day leave

b. Saturday, Sunday and gazette public holidays shall be excluded when computing the annual leave.

c. Current year annual leave balance may be carried forward to the following year. All carried forward leaves must be utilized by 30th June of the following year or else, the leave will be forfeited except for special circumstances where approval needs to be obtained from Manager of Department and HRM. Special circumstances that may be considered are as follows:

1. To Perform Umrah and Hajj
2. Long Vacation (Regional Staff)
3. Marriage / Examination

d. An Employee shall plan his leave and give sufficient notice at least five (5) days to the approving authority before taking his leave.

d. Annual leave is the prerogative of the management. The Company reserves the right to recall Employees from leave or to cancel their leaves if their services are required urgently.

f. If an Employee resigned / hired / terminated by the Company or not entitle for full month of salary, Company shall use the following formula for calculation:

$$\frac{A \times B}{C}$$

Where: A – Base salary
B – Number of employment days in a month
C – Fixed number in a month equal to 30 days

4.2 EMERGENCY LEAVE

An Employee may be granted emergency leave for the purpose of attending unforeseen domestic emergencies which requires his personal attendance. This leave will be set-off against his/her annual leave.

Any unapproved emergency leave shall be considered as unpaid leave.

Employees taking the Emergency Leave shall inform his/her Heads of Department about his/her absent as soon as possible, latest, by 10.00 a.m. of the same day, failing which he / she will be considered to be absent without reasonable excuse.

4.3 UNPAID LEAVE

An Employee may be granted unpaid leave for personal reasons provided that he / she has utilized his/her annual leave or he / she is not eligible for paid annual leave. The Company does not encourage unpaid leave. Leave will not be granted if it results in significant inconvenience or more than normal expense to the Company. Reasons may be considered for unpaid leave are:

a. Pilgrimage.

b. Examinations, in excess of the approved leave.

c. Compelling personal reasons - serious domestic problem, participation in sports at national level.

Application for unpaid leave has to be approved by the Manager of Department, HRM and MD. Unpaid leave will be calculated using the following formula:

Unpaid Leave =	$\frac{\textit{Base Salary x 12 month}}{\text{5 days x 52 weeks}}$

4.4 UNRECORDED LEAVE

The Company shall grant unrecorded leave for reasons of unavoidable duties and any other statutory / national related or exceptional events. The Company, at its discretion may impose conditions for granting unrecorded leave. The following circumstances will be categorized as unrecorded leave:

a. Involved in National Ballot – ½ day only

b. Jury Duty (does not include personal court appearances)

c. Statutory / National Related Events - includes Military training, Red Crescent, etc. as may be determined by Company.

The Company may decide on the leave entitlement for the applicable Employee on a case-to-case basis. Application for unrecorded leave has to be recommended by the Manager of Department and approved by the HRM / MD.

4.5 MATERNITY LEAVE

A female Employee is entitled for paid maternity leave for a period of sixty (60) consecutive days (including Saturday, Sunday and gazette public holidays) in respect of each confinement up to maximum of five (5) legal surviving children.

a. Maternity leave shall be applied at least two months in advance to the Manager of Department and HRM. A certificate from a qualified doctor must be submitted with the application for maternity leave.

b. Maternity leave shall only applicable after completion of at least twenty-two weeks of pregnancy due to legal marriage. Absence from work due to miscarriage prior to twenty-two weeks of pregnancy will not be regarded as maternity leave but as normal sick leave.

c. Maternity leave is granted in addition to annual leave.

4.6 MEDICAL LEAVE

An Employee who is unable to work because of illness is required to notify his/her Head of Department at the earliest opportunity or before 12.00 noon's on the day of absence indicating the nature of illness and length of medical leave anticipated.

a. The Company reserves the right to seek second medical opinion from other medical practitioners on a case-by-case basis.

b. Employees are entitled for paid medical leave on submission of a certificate from a registered medical practitioner or appropriate hospital authorities up to a period of 14 days per calendar year.

c. Medical leave taken in excess of the said limit will be treated as unpaid leave.

d. Unutilized medical leave in any calendar year will be forfeited.

e. An Employee, who fail to inform the Company of his/her medical leave for more than **forty eight (48) hours is deemed to be in breach of his/her Contract of Employment** and may be liable for termination.

f. Employees on medical leave shall be required to produce a Medical Certificate, signed by a certified Medical Practitioner, indicating the medical leave period and nature of illness, upon reporting for duty. *Sick leave should not exceed two (2) days per Medical Certificate.*

g. Medical Certificate from Government Hospital must be signed by the authorized doctor on duty.

h. Application for Medical Leave should be in the agregate of one (1) day leave

i. Employees are to apply for Medical leave and submit the original Medical Certificate with the application reference number to HR Department.

j. If the Employee is often absent due to ill-health which is affecting his/her work, he / she may be requested by the Company to take a medical examination in order to clarify the nature of the illness / sickness. If the Employee is found, by reason of poor health, to be unfit for work, his/her services might be terminated under medical grounds.

4.7 HOSPITALISATION LEAVE

Hospitalization leave is granted to enable an Employee who is certified by a registered medical practitioner or medical officer to be ill enough and need to be hospitalized or those who deemed to have the need but are not hospitalized for any reason whatsoever, to rest and recover.

4.7.1 Permanent Employees are eligible to an aggregate of sixty (60) days of paid hospitalization leave less the number of days of medical leave taken in a calendar year.

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4.7.2 Temporary, probationer and contract Employees are entitled to an aggregate of thirty (30) days of paid hospitalization leave less the number of medical leave taken in each calendar year.

4.8 PROLONGED ILLNESS LEAVE

On the recommendation of a registered medical practitioner or appropriate hospital authorities that the Employee requires further treatment suffering from tuberculosis, cancer, leukemia or any other disease or illness of prolonged nature shall in addition to his medical leave entitlement be granted Prolonged Illness Leave as follows:

a. A maximum of three (3) month on full pay

b. A further three (3) consecutive months on half pay

c. A further six (6) consecutive months without pay.

Only permanent Employees who has completed **two (2)** full years of service with the Company is eligible with this "Prolonged Illness Leave" entitlement.

4.9 DRUG AND ALCOHOL REHABILITATION LEAVE

When learnt, or on suspicion of an Employee's dependency on drug or alcohol, any staff must inform the matters to his Manager of Department or the management.

At the Company's sole option, in consultation with medical advice, the Company may assist an Employee to undergo rehabilitation (on no-pay leave) but does not waive its right to dismiss the Employee.

An Employee who has undergone rehabilitation with the Company's assistance and becomes dependent a second time will be dismissed.

Any Employee who is convicted of any offense under the laws pertaining to drugs shall be liable to immediate dismissal.

4.10 MOBILIZATION / DEMOBILIZATION LEAVE

An Employee who is transferred away from his normal work area, which necessitates him to relocate (applicable for long term assignment only) is entitled to a paid mob/demob leave (including traveling time) as follows:

STATES	NO OF DAYS
Within Peninsular Malaysia / within Sabah & Sarawak	1 working day
Peninsular Malaysia to / from Sabah or Sarawak	2 working Days

The above provision on mobilization / demobilization leave shall not apply to transfer made on personal request.

Air ticket associated to the mobilization/demobilization shall be provided by the Company upon completion of the assignment.

4.11 COMPASSIONATE LEAVE

Employee will be granted paid compassionate leave under the following circumstances upon approval by his/her Department Head / Project Manager and HRM.

4.11.1 Matrimonial Leave

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Granted for the first legal marriage during his/her period service with the Company. Employee must submit a copy of his/her marriage certificate or wedding ceremony invitation card with LISA application number to HR Department.

- 3 *consecutive* working days

4.11.2 Marriage of Legal Child

Employee must submit a copy of his/her legal child's marriage certificate or wedding ceremony invitation card with LISA application number to HR Department.

- 2 *consecutive* working days

4.11.3 Paternity Leave

Birth of legal child. Employee is to apply for the leave through LISA and submit a copy of birth certificate of the child concerned to HR Department.

Paternity leave should be taken after the birth of the child.

- 2 *consecutive* working days

4.11.4 Bereavement Leave

Death of an immediate family member including:

1.	Husband / Wife	-	3 *consecutive* working days
2.	Legal Children, Parents	-	3 *consecutive* working days
3.	Parent's in Law	-	2 *consecutive* working days
4.	Brothers and Sisters	-	2 *consecutive* working days

Employee is to apply for the leave through LISA and submit a copy of death certificate of the family member concerned to HR Department.

4.11.5 Calamity Leave

Applicable to natural disasters such as fire, flood, and earthquake etc. which directly affecting Employees. Supporting documents i.e. police report must be submitted together with application form to HR Department.

Compassionate leave has to be taken on the day the event occurs or as close as possible to the event.

4.12 PILGRIMAGE LEAVE

The Company recognizes that Muslim Employees may need to fulfill their obligations which require additional time-off from that approved under the Annual Leave entitlement to perform Haj.

5.12.1 Only applicable to Muslim Employee who has served a minimum of eight (8) years with the Company.

5.12.2 Upon application, the Employee will be granted a maximum of thirty (30) consecutive days paid leave for performing the Haj.

5.12.3 This leave is given once in an Employee's service with the Company and is subject to conditions imposed from time to time.

5.12.4 A letter from Tabung Haji or the organizing agency will be required as supporting document when applying.

5.12.5 Any Employee intending to go on Pilgrimage Leave must apply at least one (1) month before the intended leave period.

4.13 REPLACEMENT LEAVE

Replacement Leave is granted in proportion to the number of overtime hours worked by the eligible Employee and must be taken immediately after the performance of the overtime work if possible, but not later than thirty (30) days, with the prior approval of his immediate superior.

4.13.1 Replacement Leave is only granted for emergency work done for a minimum of four (4) hours of overtime work performed on a rest day or public holiday upon the request and approval of the supervisor or Manager of Department/HRM.

4.13.2 The number of hours of overtime work performed per occasion cannot be split up when applying for the Replacement Leave.

5.0 ALLOWANCE

To be competitive in the market and yet attractive to the Employee to work in the Company, the management has designed several allowances for work done by Employee outside his normal work scope.

Employee shall only entitle to one type of allowance per day of work / assignment performed.

5.1 ASSIGNMENT ALLOWANCE (More than 100 km and more than 1 month)

This allowance is applicable for an Employee who is required to work in other office than his usual work office for a continuous period of **more than 1 month and subject to more than 100 km radius from office**. The amount of the allowance will be determined and specified in his assignment letter.

Personnel who are given the assignment allowance shall not be entitled for other type of allowance of the same nature as the given allowance, such as mileage allowance, local / outstation allowance, etc.

At the discretion of the Company, this assignment allowance may also be given to an Employee for other type of assignment.

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5.2 LOCAL ASSIGNMENT ALLOWANCE

5.2.1 (Less than 100 km and less than 1 month)

When an Employee is required to work in other office / location (*less than 100 km radius*) than his/her usual work place for a period of less than 1 month, the Company shall reimburse the petrol cost (if Company car is used) or mileage together with parking, toll and other associated cost as per original receipt. The calculated distance shall be from his house or office to the new assignment location, whichever is shorter.

5.2.2 (Less than 100 km and more than 1 month)

When an Employee is required to work in other office / location (*less than 100 km radius*) than his usual work place for a period of more than 1 month, the Company will compensate him with the 'Dearness allowance'.

Refer to table 2 & 3 at the end of this handbook.

5.3 OUTSTATION ALLOWANCE (more than 100 km)

This allowance is applicable for an Employee who is required to travel to work in other location than his usual work place for a minimum period of 24 hours (inclusive of traveling time).

	WEST MALAYSIA	EAST MALAYSIA
All Staffs	RM 55 / day	RM 70 / day

This allowance is not applicable when the Employee is at offshore installation, where at this instance, offshore allowance will be given.

This rate is deemed to have included meal allowance. As such, other food / drink bill will not be reimbursed.

On the traveling day, the Company will compensate the Employee with meal allowance, subject to verification of traveling time.

In addition to the above, the Employee is eligible to claim mileage, fuel cost, toll and parking charges as appropriate if they are using own transport or Company car accordingly.

In the event of long term outstation assignment (more than 1 year), the allowance calculation is based on 10% of basic salary or minimum RM1, 000 (whichever higher) or subject to project cost and Management discretion.

During outstation assignment, should the Employee is required to attend meeting or other Company tasks in home based office, Employee are not entitled for any additional outstation allowance.

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5.4 OFFSHORE ALLOWANCE

An Employee who is required to go to any offshore installation and his/her assignment letter does not include the offshore work / assignment, he / she shall be eligible for the offshore allowance as follows:

	BUSINESS TRIPS*
ALLOWANCE	RM70
WORKING HOUR	8 Hours Normal Time + 4 Hours Overtime Maximum

* Site visit / Inspection / meeting / consultation work

If food is not provided at the offshore installation, additional meal allowance will be provided for the day the offshore trip is conducted.

5.5 MILEAGE / FUEL ALLOWANCE

If applicable, an Employee driving his/her personal transport for business travel shall be eligible for mileage allowance / fuel allowance as follows:

Motor car/Motorcycle	RM 0.80 per km (flat rate)
Company's car	Actual petrol to claim with original receipt
Parking charges	Actual cost to claim with original receipt
Toll	*Actual cost to claim with original receipt or toll statement produced by Touch & Go under the Employee's name*

Employees intending to use personal car are to seek for prior approval by the management. Car pool is recommended for travel by more than one (1) person for the same assignment / location.

The total claim shall be lesser or equivalent of an economy return air ticket plus associated public land transport cost. Where the journey / destination are not serviced by any commercial airline, staff shall be paid as per the mileage allowance rate above.

An Employee who is given a fixed mileage allowance shall not be entitled to claim additional mileage allowance for the same purpose.

5.6 LAUNDRY ALLOWANCE

If an Employee is required to be away from home for Company business trip / training and stays in hotel(s) for more than seven (7) consecutive days, he / she shall be entitled for laundry allowance as per actual receipt.

Employees are not allowed to claim laundry allowance if laundry services is provided or paid directly by the client / organizer / sponsor.

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5.7 MEAL ALLOWANCE

Where applicable, the Company shall pay meal allowance to the Employee as per the following breakdown:

DESCRIPTION	ALL STAFFS
Breakfast	RM 10.00
Lunch	RM 15.00
Dinner	RM 15.00

5.8 WINTER CLOTHING ALLOWANCE

An Employee required to perform official work overseas with moderate or cold climate is eligible to claim for winter clothing expenses up to RM1, 000.

In any case that the total claim amount is more or less than the approved amount, the amount payable shall be according to the receipt or up to RM1, 000 whichever is minimal.

This winter clothing expenses is reimbursable once in every three (3) years from the date of the claim.

6.0 EMPLOYEE'S REMUNERATION

6.1 SALARY

The Company's salary policy is to be competitive within the industry, and internally as equitable and consistent as possible. External salary and benefits surveys are conducted periodically by the Human Resource Department to establish competitive rates of salary and benefits for each category. Salary will be credited into the Employee's bank account before the end of the month. On exceptional cases, salary may be paid directly to the Employee by cheque.

6.2 ANNUAL SALARY

All Employees will be regularly appraised based on the accomplishment of tasks and objectives set for the review period, but the formal appraisal exercise will take place once a year. Increment is awarded based on the Employee's job performance.

a. Annual increment will take effect from 1st January of each year provided that the Employee is a permanent staff before or on 31st October of the assessment year.

b. Increment for permanent employee who has not served for a complete one year shall be pro-rated based on his/her joined date.

c. Contract employee shall be appraised for increment after completion of one year of service.

d. The quantum of salary increment shall be decided by the panel of management and shall depend on the Employee's performance as evaluated in the Appraisal Form over the past twelve (12) months and shall be considered after taking into account the annual performance, inflation, scaling and Company's performance. The increment amount awarded shall be considered as final.

e. Annual increment of Employee may be withheld, deferred or stopped, if the work performance of such Employee is below the expectation of the Company.

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6.3 MERIT BONUS / INCENTIVE

Merit bonus / incentive are subject to Management's discretion. The Management will specify method of the payment at the time of award.

7.0 TRAVEL ON COMPANY BUSINESS / TRAINING

7.1 AIR TRAVEL

Employees are entitled for Economy Class unless otherwise authorized in advance. Upgrading is allowed should the cost is reimbursable to Client.

7.2 GROUND TRAVEL

For ground travel, the Company reserves the right to decide the mode of transportation that is comparatively cost saving yet convenient to the staff. Available options are Company car, rental car, staff own transport or public transport.

1. For use of Company car / Employee's own transport, the Employee shall be reimbursed with fuel / mileage allowance accordingly.
2. For rental car, approval from the HRM / MD is required . The Company shall reimburse the car rental charges at cost on presentation of the original car rental receipt / bill.
3. For short / local distance travel, usage of taxi on shared basis is allowed and actual cost shall be reimbursed. Taxi receipt needs to be attached when claiming for reimbursement.

7.3 HOTEL ACCOMMODATION

All hotel booking shall be approved by HRM/MD. Priority shall be given to the Company's approved panel of hotels unless the room rates are reimbursed by client.

The Company shall be responsible for the payment of room charges and associated service charge / tax only.

If the accommodation is not approved by the Company or without Company's knowledge, the Company shall only reimburse the Employee a maximum of **RM 200.00** / night (with original receipt) or **RM 100.00** / night (without receipt).

Employees are not allowed to claim for hotel charges if accommodation is provided or paid directly by the client/organizer/sponsor.

Overstay due to personal reason other than Company request shall not be reimbursed or claimable.

An employee who is required to attend meeting or Company tasks in home based office from their outstation based office is not entitled for hotel accommodation.

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8.0 GENERAL BENEFITS

8.1 MEDICAL BENEFITS

8.1.1. Outpatient / Consultation / Dental / Pre-Post Natal Examination / Maternity Cost / Optical

Employees are entitled for outpatient medical, specialist consultation, dental treatment, pre and post natal examination, maternity cost and optical claims. The claims are subject to the limits set by the Company. The entitlement shall cover the costs of such consultations, medicine and treatment. Pre and Post Natal Examination/Maternity Cost are subject to maximum of 5 surviving children only.

Dental Treatment shall cover dental check-up, scaling, polishing, extractions and fillings at recognized dental clinic only.

Optical claim is limited to purchase of spectacles or contact lenses and must be supported with an eye test reading. Optical entitlement shall exclude plastic surgery, eyes examination, correction surgery and any other cosmetic procedures. (e.g. LASIK)

All treatments must be performed in Malaysia by a registered medical practitioner or appropriate hospital authorities.

Medical benefits shall exclude the following:

- *Over the counter purchase of medicine from pharmacies unless being prescribed by the treating doctor.*
- *Cosmetic treatment and procedures including (but not limited) for acne, scars, hair loss etc.*
- *Alternative therapies such as (but not limited to) Acupuncture, Acupressure, Chiropractic, Osteopathy, Reflexology, Bonesetting, Massage, Aroma Therapy, Herbal, Podiatric, Dietetic consultation and treatment, Traditional Complimentary Medicine etc.*
- *Preventive screening such as (but not limited to) physical examinations, health check-ups, blood test, mammogram, pap smear etc. unless incidental to treatment or diagnosis*
- *Mechanical or chemical contraceptive method of birth control or treatment pertaining to infertility*
- *Inpatient (hospitalization) treatment except for treatment that is related to maternity*

Category	Outpatient Medical
Staff (Single)	RM1,000
Married Staff	RM1,500

Any unutilized entitlement in any calendar year may not be carried forward to the following year and no cash compensation will be given for such.

Employees are required to complete the **Medical Claim Form**. Submissions of claim must be supported by original receipt with the clinic's/medical center's stamp and shall be reviewed and approved by HR Department. Medical expenses must be claimed within seven (7) working days of the date of the expense was incurred or after the Employee returned to office.

The Company reserves the right to request for clarification with any clinics or medical centers if the amount claimed is found to be unreasonable with the treatment received.

The eligible amount for employees who served the Company less than 1 year will be prorated accordingly.

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8.1.2. Hospitalization and Surgical Benefits

Employees, spouse and their dependants are entitled for the following hospitalization and surgical benefits in any hospital. The amount / limits for spouse and dependants shall be based on the following:

CATEGORY	ROOM ENTITLEMENT	Max Limit Per Annum
Director, Manager and Head	RM 180 / day	**RM 30,000**
Senior Executive and Executive	RM 180 / day	**RM 30,000**
Non-Executive	RM 180 / day	**RM 30,000**

Entry Age Limit: 18 – 64 years old.

In the event the treatment expenses exceed the maximum limit or insurance entitlement, the excess cost shall be borne by the Employee.

8.1.2.1 Principle Exclusions:

It is important for the employee to fully aware of all Exclusions in the policy. Some of the major exclusions are:

1. Treatment for congenital abnormalities.
2. Treatment for Pregnancy and other related incidents.
3. Insanity and self-infliction injuries.
4. Intoxication or drug rehabilitation.
5. Plastic or Cosmetic Surgery for beautification purposes.
6. Dental care and treatment for basic hygienic purposes.
7. Prosthetic appliances.
8. Air travel except as fare-paying passenger on a recognized airline operating.
9. Eye test, refractive errors of the eyes or surgical correction of nearsightedness or plastic surgery, and the provision of appliances, including wheelchair and spectacles or contact lens.
10. Psychic disorder.
11. Non-medical services – phone, laundry, television etc.
12. Any circumcision performed due to any reason other than illness or infection.
13. Sickness or injury arising from racing of any kind (except foot racing), hazardous sports such as but no limited to skydiving, water skiing, underwater activities requiring breathing apparatus, winter sports, professional sports and illegal activities.

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14. Any treatment received purely for investigatory purposes not incidental to diagnosis of a covered Disability.
15. Any person who resides outside Malaysia for more than 90 days continuously while the Policy is in force
16. While on active duty in military, naval or air-force of any country or any uniform bodies.
17. Birth Control, infertility, miscarriage or pregnancy
18. Any Congenital disabilities
19. Abuse of Alcohol and /or Drugs
20. AIDS or Aids Related Complex
21. Routine medical checkup
22. Sleep and snoring disorder

8.2 GROUP INSURANCE BENEFITS

8.2.1. Group Term Life (GTL)

This benefit is payable to the Employee or his/her dependant in the event of death from any cause, total and permanent disability. Refer to Table A for GTL insurance coverage.

Please contact Human Resource Department for more details.

8.2.2. Group Personal Accident (GPA)

Under this Group Personal Accident Insurance, the coverage is valid in the event of death or total and partial permanent disability due to the accident.

This is in addition to the Group Term Life Insurance above, which is in the event of death from accidental causes, Employee or his/her dependant will be entitled for both insurances coverage or up to limit that has been agreed by the Company. Refer to Table A for GPA insurance coverage.

Please contact Human Resource Department for more details.

Table A: Group Term Life and Group Personal Accident Insurance Coverage.

	PERMANENT	CONTRACT
Sum Insured	RM30,000	RM30,000

8.3 SOSIAL SECURITY ACT INSURANCE (SOCSO)

The Company and Employees shall contribute to SOCSO at the prevailing rate as per Social Security Act.

The objective of this insurance is to provide compensation to Employees should the Employees are accidentally injured in the course of their work or death arising thereof.

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8.4 EMPLOYEES PROVIDENT FUND

As required under the EPF Ordinance 1951, both Employer and local Employees are required to contribute to EPF at the prevailing rate.

9.0 PERSONAL APPEARANCE & DISCIPLINES

9.1 PUNCTUALITY

All Employees are expected to be punctual in starting work every day and with all other appointments. Employees must observe proper working hours and avoid excessive tardiness, which may result in disciplinary action. If for any reason an Employee is unable to be in the office on time for a particular day, he / she should notify his/her immediate supervisor by telephone as soon as possible. The Supervisor / Heads of Department shall query causes and duration of absence to the Employee. Employees should never assume approval for leave before approval is given even if he / she feel that he / she has a good reason. Such reasons must first be cleared with the Employee's immediate Supervisor / Heads of Department.

9.2 PERSONAL APPEARANCE

It is important that all Employees project a neat, presentable and professional image as this will reflect the Company.

It is the Company's policy that all Employees are to display personal Company ID at all times in the office premises, maintain his/her clothing, hairstyle and jewelry suitable for his/her gender and occasion whilst in office or business trip.

The Manager of Department has the primary responsibility to see that his subordinates comply with these guidelines. When an Employee is not following this guideline, the Head of Department should first try to resolve the problem through an informal discussion with the Employee involved. If the Employee continues to disregard the instruction, the Head of Department concerned may report to HR Department where a written warning may be issued.

9.3 INSUBORDINATION

Refusal of a legitimate order or the use of obscene or otherwise objectionable language to a supervisor or manager is insubordination. It undermines the discipline and authority needed in the workplace. Insubordination may result in disciplinary action, up to and including termination.

Employees should follow any orders given by a manager or supervisor unless the orders are unsafe, may result in death or serious injury, or has no job related connection. Employees may then challenge the orders through dispute resolution procedure. No action will be taken on the Employee if the orders found to be unsafe or a safer course of action is available.

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9.4 DISCIPLINE

All Employees must display good discipline and conduct at all times.

Employee misconduct, excessive lateness, absence, abuse of lunch hours and break time, failure to comply with Company procedures, or other breaches of the Employer / Employee relationship are examples of problems for which disciplinary actions may be warranted.

Table 6 at the end of this handbook is a checklist of twenty-three (23) actions, which are violations of Company rules and regulations. Depending upon circumstances, penalties for these violations of Company rules and regulations may include:

1. Issuance of a show cause letter
2. Issuance of written warning
3. Suspension from work without pay for a period not exceeding seven workings days
4. Withholding of increment for which the Employee is eligible
5. Reduction in position grade and salary (demotion)
6. Termination of employment

10.0 PERSONNEL SERVICES

10.1 PERSONNEL RECORD

HR Department maintains individual Employee information in the form of personal files and individual record sheets for purposes of reference.

To maintain an accurate and updated personal file, Employees are required to inform the HR Department in writing of any changes to personal data i.e. marital status, address, dependant, professional or additional academic qualification or any other related information.

Such information shall be treated as strictly confidential and will not be disclosed to unauthorized personnel without the individual's permission.

HR Department will issue Employee Administration Number which shall be used on all documents / forms where applicable.

10.2 EMERGENCY CONTACT

Employees are required to inform HR Department on changes of information relating to name, address and contact telephone number of next-of-kin or personal representative in cases of an emergency. Employee may self-update the information via LISA.

10.3 EMPLOYEE RELATIONS

When any Employee learns of the death or serious illness of his colleague or a member of his/her colleague immediate family, the information should be given immediately to the Manager of Department and HR Department.

10.4 PERSONAL MATTERS

Employees may approach HR Department directly in any matter of a private or personal nature. HR personnel shall assist the employees wherever possible.

10.5 NOTICE BOARD

Announcements on a wide range of Company matters will be posted on Notice Boards. All Employees should view and pay particular attention to policy or procedural requirement.

All announcement / amendment to procedures etc. shall be deemed to be in effect after it has been posted on the notice board for at least 5 working days. All Employees should regularly visit the notice board and pass any information posted to other employees.

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11.0 CLAIMS

11.1 GENERAL

The following policies provide guidelines for all claims over the expenses incurred by Employee on behalf of the Company.

It is the Employee's responsibility to ensure that claims are reasonable. Project Managers / Managers of Department are responsible for reviewing the expenses to ensure compliance with policy and to disallow any non-refundable expenses.

Claims must be supported by official receipts. The Company does not reimburse personal expenses.

In all cases, expenses must be approved by the appropriate Project Manager or Manager of Department. Expenses incurred by Manager of Department or by Employees who have no immediate supervisor must be approved by the HRM / MD. No Employee may approve his/her own expenses.

The Finance Department is responsible for reviewing expenses for proper approvals and compliance with written policies and for bringing to the attention of the HRM / CEO for any deviation from the policies.

11.2 ADVANCE

Advance on expenses to assist Employee on "out of office" assignments, setting down allowance, rental deposits (for expatriate / regional staff only), etc. shall be requested on an **Advance Requisition Form**.

When an Employee is requested to go on a business trip, he / she shall be entitled to receive an advance which covers approximately his/her expenses, whilst he / she is away. The advance shall be enough to cover the expected hotel and living expenses. If the hotel is pre-paid by the Company, an advance for accommodation shall not be granted.

For application of cash advances, the completed form shall be signed for acknowledgement by the appropriate Head of Department / Project Manager and then forwarded to the Finance Department for processing.

All advances should be cleared within seven (7) days of the journey's completion either through a claim or by payment to the Finance Department. Any outstanding advances shall be deducted fully from the Employee's salary payment.

Finance Department may not approve and process Employees' new advance application until outstanding advances applied from previous application settled and submitted

Cash advances for purchasing of office matters shall also be treated in accordance to this policy.

For group travel, the Employee who has requested for the advance shall submit the expenses claim. Others in the group shall submit the respective allowance claim individually.

Expenses claim to set off the advance must be submitted to Finance Department within seven (7) days upon returning from the travel. Otherwise, salary for the following month may be retained.

Unutilized advance must be returned to Finance Department within the same period.

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11.3 EXPENSES CLAIM

Claimable Expenses are Company approved expenses for project execution, administration matters, contractual clauses or general Company provisions. Employees are to complete the **Project Expenses Claim Form** as per compensation scheme of this handbook or assignment letter.

1. **Local Expenses**

   All expense claims approved by the appropriate Manager of Department / Project Manager in respect of a specific journey must be submitted to Finance Department within seven (7) days after the journey was performed.

2. **Overseas Expenses**

   Same as stated above. The handling of foreign currency is the Employee's own responsibility. Currency exchange rate receipt must be submitted together for actual rate to be used. Otherwise, Finance Department shall base on Bank Negara Malaysia's exchange rate as per travelling date.

3. **Reimbursement of Expense Claims**

   All approved expenses claims shall be paid together with the salary of the following month.

12.0 TERMINATION OF SERVICE

12.1 NOTICE OF TERMINATION

The notice of termination for a permanent Employee will be as follows:

DESCRIPTION	TECHNICAL EXECUTIVE, SENIOR EXECUTIVE & MANAGER	NON TECHNICAL EXECUTIVE & NON EXECUTIVE
Upon confirmation	1 months	1 month

Contract Employee is required to give a minimum one (1) month notice of resignation.

An Employee is required to give written notice of his/her intention to resign from the Company or salary in lieu of notice. The Company will give similar notice if it wishes to terminate the services of an Employee with the exception of those services are terminated for disciplinary action.

However, the Company reserves the right to shorten the resignation notice period for an early exit.

On resignation, termination or dismissal from service, an Employee shall surrender all Company's belongings and to settle all outstanding liabilities, loans and other obligations to the Company.

13.0 PROCEDURES

13.1 PROCEDURE FOR TRAINING REQUEST

Any Employee/Supervisor who feels that his/her subordinates requires training for improving his/her work, shall apply to the Company by filling up a Training Application Form. The form shall approved by the MD.

Employees who are sent for training on Company's expense shall have to sign a bond contract in accordance with the total cost of the training as follows:

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TRAINING COST (RM)	BOND PERIOD
RM 5,000.00 to RM 15,000.00	1 year
RM 15,001.00 to RM 30,000.00	3 years
Above RM 30,000.00	5 years

Should the Employee decided to leave the Company before completing the bond period; he/she shall reimburse the Company the full amount of the training cost.

Employees who have attended **BOSIET** Training on Company's expense shall reimburse the full training cost, if he / she decided to resign before completing 1 year of service from the date of training completion.

13.2 PROCEDURE FOR TRAVEL AND ACCOMMODATION REQUEST

An Employee who is required to travel shall complete the **Air Travel & Accommodation Requisition Form** as detail as possible. Any accommodation or car rental required is to be specified. Errors must be neatly cancelled and initialed by both the claimant and the Manager of Department. All approved forms are to be submitted to the CEO's Secretary for processing as soon as possible.

13.3 PROCEDURE FOR CLAIMING OVERTIME

1. Prior to performing overtime, the Employee is to complete the Overtime Request Form preferably at the beginning of the week. State the project no, brief description of the work to be done and the length of the overtime planned for each day of the week.
2. The Overtime Request Form duly completed is to be signed by the applicant and given to the Head of Department / Project Manager for approval.
3. Only upon receiving the approved Overtime Request Form from the Heads of Department/ Project Manager, the overtime may be performed.
4. Upon performing the overtime, the applicant shall fill-up the actual hours of the overtime performed for each day of the week and submit the completed Overtime Request Form together with the weekly timesheet to the Company via Heads of Department / Project Managers.
5. Heads of Department / Project Managers shall check the submitted Overtime Request Form and enter his signature on the checked column of the Overtime Request Form for each overtime line activities.
6. Errors must be neatly canceled and initialed by both the applicant and the Heads of Department.

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13.4 PROCEDURE FOR CLAIMING EXPENSES

All reimbursable expenses must be claimed within seven (7) working days after the travel was performed or after the Employee returned to the office.

1. Employee claiming for reimbursement of expenses / allowance shall do so by filling up the **Project Expenses Claim Form**. All claims must be supported by original receipts. The Company shall have the right to reject any claims which are not supported by the original receipt.
2. The following supporting documents are required to be submitted together with the claim:
   - Usage of Touch & Go – Touch & Go statement under the name of the claimer
   - Travel by flight – boarding passes
   - Business calls during travel – telephone bill
   - Mileage – Google map of the route taken
3. Details of expenses are to be clearly defined and "Refer to Attachment" is strictly not acceptable. All original receipts are to be pasted on a clean A4 paper particularly those employees involved with reimbursable projects.
4. Prior to forwarding the expense report to Finance Department, it is the responsibility of the claimant to have the expense report approved by the Project Manager / Head of Department.
5. The Finance Executive shall stamp receipt date on the Expense Claim and check the claims against Company policy. Any discrepancy shall be brought to the attention of Finance Manager and / or HR Manager for resolution.
6. Expense Claims shall than be checked and approved by the Finance Manager prior to payment being made in accordance to the Company policy.

14.0 SAFETY

The Company has adopted the following safety policy:

1. The Company places the greatest importance on the safety of its Employees and will do its utmost to provide safe and healthy working conditions at all times.
2. The Company will take all reasonable steps to provide the best possible case in design, construction and maintenance of equipment and facilities including safety equipment.
3. Each level of management shall be familiar with the relevant statutory requirements, codes of practices, Company practices and procedures and shall not permit themselves or their subordinates to perform work unsafely.
4. The Company will instill and promote safety consciousness amongst Employees to prevent accidents and injuries and will strive to educate the Employee that:
   a. Safety is the responsibility of both the Employee as well as the Company.
   b. It is the duty of every Employee to exercise personal responsibility and to do everything within his/her means to prevent injury to himself / herself and to his/her colleagues.
   c. The prevention of accident is a joint effort and co-operation of the Employees and Management as a team helps make the Company the safest and best place to work in.

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15.0 IT RULES AND REGULATIONS

15.1 PERSONAL COMPUTER

Employees are to apply the "Lock Workstation" feature (Ctrl / Alt / Delete and press Enter) where the system allows when leaving a desktop or laptop unattended. Password protected screen saver should be used to protect desktop and laptop from unauthorized access. Laptop computers actively connected to the network or information systems must not be left unattended. Desktop and laptop computers and monitors shall be turned off at the end of each workday.

Computer Invasion of Privacy: An Employee who uses a computer with the intention of examining any employment, medical, salary, credit, or any other financial or personal data relating to any other person with knowledge that such examination is without authority shall be guilty of computer invasion of privacy.

Employees are not allowed to bring their own personal notebook to the office unless an approval is obtained from Department Manager and IT Manager accordingly.

15.2 SOFTWARE APPLICATIONS

Installation of any kind of personal application including programs downloaded from the internet is strictly prohibited. Software must not be installed by the Employee without prior authorization from IT Department. The Company shall treat the installation of unlicensed software by the Employee as a serious breach of the IT Policy.

15.3 EMAILS

The Company email system is core to the business. It should not be used for any purposes not related to the Company.

The Company retains the right to check all emails and shall block them for various reasons. Employees shall be notified if any emails they have sent or received has been stopped by the system. Employee may contact IT Department to have the message checked and released.

Messages may not be released by IT Department for various reasons, including viral, subversive or personal content.

Employees are prohibited from sending Company's confidential information by email without prior approval or without permission.

Limited personal use of email is permitted. Mass forwarding of large files with more than 5MB, objectionable or sexual material, profane language, inappropriate jokes, etc. are not acceptable.

15.5 DOCUMENT STORAGE

Employees should avoid storing data on their local hard drives. Data so stored may be lost if a problem develops with the PC, and IT Department may not be able to assist in its recovery. Data is advisable to be stored within the file directory (folder) in the server.

Storing personal data into the server and local hard drives is strictly prohibited.

Remote and laptop/notebook PC users must ensure they back up their data regularly. IT Department shall provide advice and assistance.

15.6 ANTI-VIRUS PROTECTION

Employee should scan all media (including floppy disks, zip disks, thumb drive and CDs) for virus before first use. IT Department shall provide assistance and training where required.

15.7 PASSWORDS

Employees should change their passwords when prompted by the system in the case of networked machines or on a regular basis for standalone machines. Employees are responsible for the security of their password which they should not divulge, even to colleagues.

16.0 THE COMPANY CODES OF CONDUCT & DISCIPLINE

Notwithstanding to Para 9.4, the Company Codes of Conduct and Discipline is laid out as follows:-

16.1 CODES OF CONDUCT

i) It is the Company expectation that an Employee should inculcate the following values:-

a) Strive towards a high standard of professionalism;

b) Give his undivided loyalty and devotion to the Company at the all times and all occasions;

c) Have a strong team spirit;

d) Serve with honesty and integrity, goodwill and courtesy;

e) Display a high sense of cooperativeness and proactive in carrying out his duties;

f) Generate new ways of approaches in the course of his work;

ii) In view of the above values, all Employees shall not:-

a) Subordinate his/her duties to the Company in favor of his/her private interest

b) Conduct himself / herself in such a manner as likely to bring his/her private interests into conflict with his/her duties

c) Conduct himself / herself in any manner as likely to cause a reasonable suspicion that:-

1. He / She has allowed his/her private interests to come into conflict with the duties so as to impair his/her usefulness as an Employee of the Company
2. He / She has used his/her position in the Company to his/her advantage

d) Conduct himself / herself in such a manner as likely to bring the Company in disrepute or bring discredit to the Company

e) Bring or attempt to bring any form of outside influence or pressure to support or advance a claim relating to the Company whether the claim is his/her individual claim, or that of other Employees of the Company.

f) Conduct himself / herself in such a manner as can reasonably be constructed as lacking in efficiency.

g) Be dishonest and conduct himself / herself in such a manner as to lay himself/herself open to suspicion of being dishonest

h) Conduct himself / herself in an irresponsible manner.

i) Conduct himself / herself in such a manner as may be constructed as an act of insubordination.

An Employee who is in breach of the above codes of conduct will render himself / herself liable to disciplinary action.

iii) An Employee shall also strictly:-

a) Observe all statutory laws and regulations

b) Comply with the Company established rules and regulations.

Stern disciplinary action will be taken against any Employee for non-compliance of such laws, rules and regulations.

16.2 MAKING OF PUBLIC STATEMENTS

1. An Employee shall not either orally or in writing or in any form make or circulates any public statement on the policies or decisions of the Company.
2. Except with the permission of the Company, an Employee shall not either orally or in writing or in any other forms make any public statement or comment on any matter relating to the

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work of the department or organization in which he is or was employed or relating to any organization in which the Company has dealing with:

3. Except with the consent of the Company, an Employee shall not either orally or in writing discuss publicly any measures taken by the Company or any official matters taken and carried out by the Employee.

4. In this sub-section "public statement" or "discuss publicly" includes the making of any statement or comment to the press of the public or in the course of any lecture or speech of the broadcasting thereof by sound or vision.

16.3 PARTICIPATION IN THE MEDIA

An Employee shall not participate in any form of advertisement or broadcasting whether in the newspapers, magazines, radio or television or any other media with the exception of the Company publications, without prior written consent from the Company.

An Employee may be allowed to contribute literally or academic articles to any publication i.e., newspapers, magazines or journal, provided he / she gets prior permission from the MD. Any monetary rewards thereby obtained by the Employee should be declared to the Company and the Company will decide whether the Employee may retain such monetary rewards.

16.4 OFFICER TO REPORT

1. If an Employee finds that his/her colleague / subordinate is inefficient or has committed any breach of any of the Terms and Conditions of Service, the Employee shall forthwith report either orally or in writing to his/her immediate superior or Head of Department. If the report is made orally he / she has to subsequently confirm it in writing.

2. An Employee who fails to report shall himself / herself be considered to be guilty of inefficiency and render himself / herself to disciplinary action.

16.5 CONFLICT OF INTEREST

An Employee may not own, either directly or indirectly e.g. through immediate family, share or other forms of beneficial interest (herein collectively called "Equity") in:-

1. Privately owned entities which derive the major part of their income from contractual or other business arrangements with the Company:

2. Privately owned entities which are listed in the Company lists of authorized contractors, even if the entities concerned do not derive most of their income from contractual or other business arrangements with the Company;

3. Privately owned entities supplying materials, equipment, property and / or services to the Company.

Should an Employee become directly or indirectly (e.g. through immediate family) the owner of equity in such entities as have the aforesaid relationship with the Company, then Employee has an immediate obligation to inform the Company in writing the changed circumstances. The Company will then consult with the Employee concerned as the most appropriate way to prevent conflict of interest.

16.6 SECRECY AND LEAKAGE OF INFORMATION

1. An Employee shall not, either during or after his/her employment hereunder, divulge or utilize any confidential information belonging to the Company (including confidential information as to formulae, processes and manufacturing methods, and confidential information as to the business and affairs of the Company) which may have come to his/her knowledge during his/her employment under any previous contract of service with the

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Company and he / she shall, both during and after his/her employment hereunder, take all reasonable precautions to keep all such information secret.

2. Except so far as may be necessary for the purposes of his/her duties hereunder, and Employee shall not, without the consent of the Company retain or make originals or copies of telegrams, letters, maps, reports, drawings, calculations, specification, formula, forms, licenses, agreements or other documents of whatever nature belonging to the Company or notices thereof, nor retain samples of specimens in which the Company may be or may have been interested and which have come into his/her possession by reason of his/her employment hereunder. If on termination of his employment, an Employee is in possession of any originals or copies of telegrams, letters, maps, reports, drawings, calculations, specifications, formulae, forms, licenses, agreements, or other documents of whatever nature belonging to the Company, or any notices thereof or any such samples or specimens as aforesaid, he / she shall deliver the same to the Company without being asked, except so far as consent to retain them has been given to him / her by the Company. Any such consent shall not of itself relieve the Employee from his/her obligations under Para (i) above.

3. The Official Secrets Act 1972 and the Official Secrets (Amendment) Act 1986 prohibits the free access and indiscriminate use of documents containing matter of information which is prejudicial to the safety or interests of Malaysia.

4. Failure to observe the provisions in paragraph (i) or (ii) above may render an Employee is breach of these provisions liable to be charged and prosecuted under the Official Secrets Act 1972.

16.7 LIABILITY OF EMPLOYEES

An Employee may be liable to an extent to be determined by the Company for any Company facilities given or any other action taken by him / her with the approval of the Company. Any payment that has to be made by the Company as a result of the Employee negligence or careless action or as result of action taken without approval shall be recoverable from the Employee by way of deduction from his/her salary or the Company at its discretion may take any other action against such Employee.

16.8 DRESS CODE

The Company requires strict adherence to these guideline:

For Men

The normal office attire shall be either a short or long sleeved shirt with long pants. Executive officers are required to wear ties when attending official meetings with outsiders within or outside the Company. National dress may be worn on Friday. Proper shoes shall be worn with socks.

For Women

The acceptable dress codes for female Employees shall be in accordance with current respectable fashion trends.

Friday Attire

Employees are allowed to wear the following to office on Friday only:

1 Decent Jeans / Denim

2 T-shirt with collar

3 Baju Melayu or any other traditional attire

Wearing sandals / slippers are prohibited in the office areas at all-time except for Muslims for the purpose of prayers ablution.

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16.9 DISCIPLINARY PROCEDURE

1. The Company may impose any one or combination of following disciplinary actions against any Employee in the event of misconduct or inefficiency: -

   i) Issuance of show cause letter

   ii) Giving verbal or written warning

   iii) Suspension from work with or without pay for the period to be determined by the Management.

   iv) Withholding of increment

   iii) Demotion (salary reduction / downgrading of position).

   iv) Termination of employment

   v) Summary dismissal

2. The MD or any executive authorized by him may suspend an Employee before or after an investigation has been carried out and the employee shall be notified accordingly.

3. Notwithstanding to the above, before any disciplinary actions is taken, an Employee shall be given an opportunity to be heard and the Management decision after hearing shall be final.

16.10 GROUND FOR DISCIPLINARY ACTION

Notwithstanding to Para 9.4, any of the above-stated disciplinary action as outlined in Para 16.0 can be taken on the ground or grounds of:-

1. Inefficiency
2. Dishonesty
3. Misconduct
4. Indiscipline
5. Negligence
6. Carelessness
7. Bankruptcy
8. Serious pecuniary embarrassment
9. An act of insubordination
10. Abuse of position of office
11. Conviction of a criminal offence
12. Default against any of the Terms and Conditions of Service
13. Any other act or neglect considered serious

16.11 APPEAL PROCEDURE

An Employee who is aggrieved by the decision in a disciplinary action has the right to appeal to the management (HR Department) to have the decision reviewed within 30 days from the date of the service or posting of the written disciplinary action.

16.12 SMOKING RESTRICTIONS

Smoking is strictly forbidden within the Company premises. Smoking restriction shall include electronic and non-electronic cigarette, cigar and pipe.

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16.13 PERSONAL MAILS USING COMPANY ADDRESS

Employees are not encouraged to use the office addresses for personal mails. Company will not responsible for any missing or misplaced case.

NOTES TO COMPENSATION SCHEME

1. The maximum offshore workday payable is 12 hours inclusive of traveling hours on the first and last day.
2. Employees traveling in groups on trips or assignments shall share the personnel car or taxi and are entitled to a mileage claim of one (1) car for each group of up to four (4) Employees or the fixed amount divided by the number of Employees traveling together to a maximum of four (4). This claim is only applicable for initial and final travel from base office to / from location of assignment.
3. No allowances and overtime shall be paid for Employees on (safety) training, or seminar courses as this can be considered as an advancement to the staff.
4. Personnel cars should not be used for locations which are adequately serviced by commercial flights. However if approved by the management, the personnel car may be used for such destination. In this case the Employee is only entitled to claim the equivalent economy airfare cost plus the applicable land transportation to the destination.
5. Daily allowance shall not be claimed on the traveling day from office / home to assignment location. On these days, only meal allowance will be compensated, e.g. an assignment of three (3) days and two (2) nights shall be entitled to claim of two (2) outstation allowance plus respectively one (1) day of meal allowance as applicable.
6. Overnight stays are subject to prior management approval except for exceptional circumstances such as cancelled flights etc.

TABLE 1: COMPENSATION SCHEME FOR BUSINESS TRIPS & ASSIGNMENTS (OVER 100KM RADIUS FROM OFFICE)

		Day Trip			Assignment with Overnight Stay		
Item	**Description**	**Plane**	**Company Car**	**Own Transport**	**Plane**	**Company Car**	**Own Transport**
A	Tickets	By Company	–	–	By Company	-	-
B	Taxi / Public Transport	cost	–	-	cost	-	-
C	Mileage Claim	–	–	Refer Para 5.5	–	-	Refer Para 5.5
D	Petrol / Toll	–	Per Receipt	Per receipt (Toll only)	–	Per receipt	Per receipt (Toll only)
E	Hotel / Accommodation	–	–	–	Refer Para 7.3	Refer Para 7.3	Refer Para 7.3
F	Meals / Refreshment	Refer Para 5.7	Refer Para 5.7	Refer Para 5.7	–	-	-
G	Outstation Allowance	–	–	–	Refer Para 5.3	Refer Para 5.3	Refer Para 5.3
H	Overtime Claim	If Applicable	If Applicable	If Applicable	If Applicable	If Applicable	If Applicable

Note :

1. *Supporting document for toll may be in form of toll receipt or toll transaction statement produced by Touch & Go.*
2. *Toll transaction statement submitted must be under the name of the claimer*
3. *To register with Touch & Go, please visit www.touchngo.com.my*

TABLE 2: LOCAL ASSIGNMENT (Less than 1 month and less than 100km radius)

ITEM NO	DESCRIPTION	WITHIN 25 KM RADIUS	BETWEEN 26 KM AND 50 KM RADIUS	BETWEEN 51 KM AND 100 KM RADIUS
1	Mileage Claim	Yes	Yes	Yes
2	Parking Fees	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt
3	Toll	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt
4	Petrol (Company Car Only)	@ Cost with Receipt	@ Cost with Receipt	@ Cost with Receipt

***Payment will be based on actual day performed.**

TABLE 3: LOCAL ASSIGNMENT (More than 1 month and less than 100km radius)

ITEM NO	DESCRIPTION	WITHIN 25 KM RADIUS	BETWEEN 26 KM AND 50 KM RADIUS	BETWEEN 51 KM AND 100 KM RADIUS
1	Mileage Claim	N/A	N/A	N/A
2	Parking Fees	N/A	N/A	N/A
3	Toll	N/A	N/A	N/A
4	Petrol	N/A	N/A	N/A
5	Dearness Allowance (RM) / Per Day	10.00	15.00	25.00

***Payment will be calculated based on 30 days or lump sum payment*

TABLE 4: OVERSEAS ALLOWANCE

	ALLOWANCE (RM)	HOTEL RATE (RM)	LODGING ALLOWANCE (RM)
	Per Day (6 hours or more)	Hotel Rates supported by receipt	Rates of lodging allowance if not supported by receipt (per day)
ASEAN	150	300	200
Asia/Middle East	150	300	200
UK / Europe	250	600	300
USA / Canada	200	400	200
Africa	200	400	200

TABLE 5: VIOLATION OF COMPANY RULES AND REGULATIONS

The following offences are violations of Company rules and will be treated with the penalties as specified in this handbook:

1. Theft or intentional damage of property of Company or other Employee
2. Assault on supervisor or other Employee
3. Threatening or intimidating Employees or supervisors
4. Falsifying Company records
5. Removal of Company records or release of confidential information
6. Using another's badge / pass or permitting another to use your badge / pass to enter Company property
7. Stopping work early, stretching breaks or otherwise wasting time
8. Leaving department or office during working hours without permission
9. Unauthorized absence
10. Excessive absenteeism or lateness
11. Possession of illegal weapons or firearms on Company premises
12. Reporting for work under the influence of alcohol or drugs or drinking alcohol or using illicit drugs on Company premises
13. Smoking in unauthorized areas
14. Gambling on Company property
15. Insubordination
16. Failure to follow instructions or fulfill assigned duties
17. Sleeping in office during working hours
18. Disregarding safety rules
19. Fighting or attempting to provoke a fight on Company premises
20. Deliberately restricting output
21. Failure to maintain product standards
22. Any illegal conduct or activity
23. Sexual Harassment (verbal or gesture or visual or physical or psychological)

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

HUJAHAN BERTULIS DEFENDAN

(Berkenaan Permohonan Defendan di bawah Aturan 18 Kaedah 19)

Di failkan oleh Peguamcara Defendan
TETUAN FADHLI SUTRIS & ASSOCIATES No. 8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300 Kuala Lumpur. Tel: 03-4131 1557 Faks: 03-4141 8824 Email: law@fadhlisutris.com [Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

DEFENDANT'S SUBMISSION

Yang Arif,

Pohon diberi kebenaran untuk memfailkan hujahan di dalam Bahasa Inggeris.

My Lady,

1. The Plaintiff's action is based on his claim against the Defendant for agreed final net profit from the Defendant's projects – Curtiss Wright, Malakoff, and GWC Italia ("**Defendant's Projects**"). Here the Plaintiff has prayed for an independent audit of the Defendant's account to determine the sum of net profit to be paid to the Plaintiff, and in the alternative a prayer for the sum of RM3,511,000.00.

2. The Defendant has filed this application for striking out under either limb (a) or (b) and (d) of Order 18 Rule 19 of the Rules of High Court 1980 – for disclosing no course of action, or alternatively for being

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scandalous, frivolous and vexatious and for abusing the due process of this Honourable Court – for the reasons adumbrated below:

i. The Plaintiff's Statement of Claim has failed to show his right to receive the agreed profit from the Defendant's Projects have arisen; and

ii. The Plaintiff's Statement of Claim failed to particularize how the amount of RM3,511,000.00 was reached; or

iii. The Plaintiff knew his cause of action against the Defendant has not yet arisen, but had nonetheless brought this action against the Defendant to scandalize and vex the Defendant's Managing Director, thus making this action a frivolous one against the Defendant, with the intent to harm the Defendant; and

iv. Without a cause of action, the Plaintiff's action here, with the intention to harm the Defendant is a clear abuse of court process.

Plaintiff's preliminary objection

3. We have been notified by the Plaintiff by way of his Affidavit in Reply affirmed on 16.12.2021 (which we received on 17.12.2021) that the Plaintiff will be raising a preliminary objection to this application, with regards to the admissibility of the Defendant's affidavit in support of this application, since no affidavit evidence is allowed in determining cause of action for an application under Order 18 rule 19(a).

4. The Defendant submits that its application for striking out is made under order 18 rule 19(a) or alternatively Order 18 rule 19 (b) and

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(d), and therefore, the Defendant is entitled to make reference to affidavit evidence.

5. In the Court of Appeal case of **HARAPAN PERMAI SDN BHD v. SABAH FOREST INDUSTRIES SDN BHD [2011] 1 CLJ 285**, YA Low Hop Bing JCA had stated as follows:

"*In examining the defendant's ground under O. 18 r. 19(1)(b) ie, that the plaintiff's action "is scandalous, frivolous or vexatious" or (d) ie, that "it is otherwise an abuse of the process of the Court", we are entitled to refer to affidavits."*

6. As such, in determining a striking out application under Order 18 rule 19 (b) and (d), the Court may refer to the affidavit evidence put in by parties, as the Defendant clearly specified the use of limb (a) – non disclosure of cause of action, **or** in the alternative, limb (b) – that this matter is scandalous, frivolous and vexatious. The use of the word 'or' indicates that the Defendant meant to apply the limbs (a) and (b) of Order 18 Rule 19 disjunctively.

7. In the Court of Appeal case of **DATUK IR CHE AMRAN MOHD YUSOFF v. YAYASAN MELAKA & ORS [2003] 1 CLJ 767,** YA Low Hop Bing (as he was then) dealt with the issue of the word 'or' with regards to striking out applications. He said:

"The defendants' use of the word "or" in respect of their application under O. 18 r. 19(1)(b), (c) or (d) of the RHC showed that the three said limbs of O. 18 r. 19(1) were being used 'disjunctively'.

8. Since this application to strike out was made disjunctively, the Court may refer to the Defendant's affidavit without taking into account the content of the same for the application under limb (a). We submit that there is no issue with regards to the affidavit being inadmissible or that the affidavit be struck off *in limine*.

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9. The Defendant will now submit on the crux of this application:

Non-Disclosure of Cause of Action

10. As submitted in paragraph 2 (i) and (ii), the Plaintiff's Statement of Claim fails to disclose any cause of action against the Defendant for the net profit that the Plaintiff is entitled to.

11. According to Oxford Languages, profit means "*a financial gain, especially the difference between the* ***amount earned*** *and the amount spent in buying, operating, or producing something*". This surely must mean that in order to calculate profit, the amount has to first ***be earned***. With this in mind, we submit that the Plaintiff has failed to disclose in his Statement of Claim that the net profit he is entitled to has already been earned by the Defendant.

12. From the Plaintiff's Statement of Claim, paragraph 9(i) and (ii) state that:

    i. Syarikat Defendan bersetuju membayar 50% daripada ***keuntungan bersih*** berdasarkan kepada pembayaran yang diterima dan 40% daripada ***keuntungan bersih*** berasarkan kepada pembayaran yang masih belum terima yang dihasilkan daripada perniagaan-perniagaan Curtiss Wright, Malakoff dan GWC Italia semasa Plaintif bekerja di syarikat Defendan di mana jumlah tersebut akan dikira dan dinyatakan dalam suatu akaun penyata yang disediakan oleh juruaudit pihak ketiga yang dilantik oleh Plaintif dan Defendan ("**Jumlah Penyelesaian**").

    ii. ***Akaun penyata tersebut adalah akhir dan muktamad***.

13. Here it is clear that the Plaintiff is entitled to net profit of 50% for payments that the Defendant has received under the Defendant's Projects, and a further 40% net profit of the said project once the

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balance payment is received by the Defendant. It is crucial to point out that profit means, as defined earlier, as amount already earned. This is because parties have agreed also to a final Statement of Account to be final and binding. We submit that net profit cannot be determined where the income has yet to be earned, and Statement of Account can only be final and binding based on actual earned income, and not a mere projection.

14. The Plaintiff's claim therefore is premature. To date, the Defendant still has not received the balance payment under the Defendant's Projects, which means the 40% net profit is not due as yet. This is also because without proper earnings to be accounted for, the final and binding Statement of Account cannot be prepared.

15. As such, we submit that the Plaintiff's claim here is premature, and thus, the cause of action has not arisen. There is, therefore, no cause of action.

16. There was nothing in the Statement of Claim:

    i. that indicated that the Defendant has received all the necessary payments under the Defendant's Projects to trigger the Plaintiff's entitlement to his portion of the agreed net profit;

    ii. that Plaintiff has the right to have the whole of Defendant's account audited, since the Plaintiff's interest is only with respect to the net profit to be earned under the Defendant's Projects; and

    iii. to particularize the Defendant's purported debt to the Plaintiff to show how the alleged figure of RM3,511,000.00 was arrived at, since the Plaintiff's claim is based on a series of events, and not just a one-off lump sum payment.

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17. These are all material facts that needed to be pleaded**. Order 18 Rule 7 of the Rules of the High Court 1980** reads the following:

> "***Rule 7. Facts, not evidence, to be pleaded. (O. 18 r. 7)***.
>
> *(1) Subject to the provisions of this rule and rules 10, 11 and 12, every pleading must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.*
>
> *....*
>
> *(4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in his pleading*."

18. To successfully claim against the Defendant, the Plaintiff must show in his pleadings the occurrence in which his right to receive the net-profit from the Defendant arise. The Plaintiff had pleaded his future rights, but had failed to plead the event on which his right is exercised. The Plaintiff did not plead that the Defendant has already received all the payments due under the Defendant's Projects, when clearly his pleading stated that he will be entitled to 40% net profit from payments that the Defendant has yet to receive under the said projects.

19. It is plain and obvious that failure to plead the event in which his right arose is fatal to the Plaintiff's case

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20. In the Supreme Court case of **GOVERNMENT OF MALAYSIA v. LIM KIT SIANG & ANOTHER CASE [1988] 1 CLJ 63 (Rep)** YAA Tun Salleh Abas LP (as he was then) defined 'cause of action' to mean:

"What then is the meaning of "a cause of action"? "A cause of action" is a statement of facts alleging that a plaintiff's right, either at law or by statute, has, in some way or another, been adversely affected or prejudiced by the act of a defendant in an action. Lord Diplock in ***Letang v. Cooper [1965] 1 QB 232*** *at 242 defined "a cause of action" to mean "a factual situation, the existence of which entitles one person to obtain from the Court a remedy against another person". In my view the factual situation spoken of by Lord Diplock must consist of a statement alleging that first the respondent / plaintiff has a right either at law or by statute and that secondly such right has been affected or prejudicated by the appellant / defendant's act."*

21. The Plaintiff's Statement of Case, if read on its own, did not sufficiently plead factual situation that to show that he has an existing right to the agreed percentage of net profit, which leads to his entitlement to the relief he had claimed against the Defendant. The Plaintiff's claim is obviously unsustainable. The entitling factual situation simply has not yet existed. The Plaintiff's Statement of Claim discloses no cause of action against the Defendant.

22. In the case of **HONAN PLANTATIONS SDN BHD v. KERAJAAN NEGERI JOHOR & ANOR [1998] 3 CLJ 253**, YA Gopal Sri Ram CJA (as he was then) in writing for the Court of Appeal, had this to say:

"The principles governing an application made under O. 18 r. 19(1)(a) are well settled and have been stated by our courts on many occasions. For my part I can do no better than to quote from the judgment of Raja Azlan Shah J (as he then was) in Mooney &

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Ors v. Peat, Marwick, Mitchell & Co & Anor [1967] 1 MLJ 87 at p. 88:

It is firmly established that the power exercised under r. 4 (the precursor to O. 18 r. 19) 'is only appropriate in cases which are plain and obvious so that a judge can say at once that a statement of claim as it stands is sufficient, even if proved, to entitle the plaintiff to the relief of which he asks for': see the judgment of Lindley M.R. in Hubbuck & Sons v. Wilkinsons, Heywood & Clark Ltd. [1899] 1 QB 86, 91. Where the situation arises, the pleadings and particulars alone shall be considered and all the allegations in it shall be presumed to be true, and it is only on that assumption that any suitable case can be made for this application: see Peck v. Russell [1923] 4 FMSLR 32, 34. The court cannot and indeed is not empowered to look behind the pleadings and particulars if it discloses a reasonable cause of action.

23. It is plain and obvious that the case at hand today can be appropriately dealt with under Order 18 Rule 19(a) of the Rules of the High Court. From these cases, the Court is only allowed to judge the pleadings based on the four corners of the Statement of Claim, with no reference whatsoever on the affidavits evidence.

Scandalous, Frivolous and Vexatious Claim

24. The Plaintiff's claim against the Defendant is for a percentage of net profit obtained under the Defendant's Project

25. The facts show that:

    i. The Plaintiff was a Defendant's Business Development Manager from 2.2.2018 to 30.10.2020;

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ii. The Plaintiff and Defendant agreed to a termination settlement, as can be seen in Exhibit "MH-1" – Settlement Agreement dated 26.10.2020 ("**Settlement Agreement**");

iii. The Settlement Agreement clearly states that the Defendant agrees to award the Plaintiff 50% of **net profit** on full payment received and 40% of net profit on pending payment generated by businesses of Curtiss Wright, Malakoff and GWC Italia at the time the Plaintiff left the Defendant's employment;

iv. The agreed net profit means that the Plaintiff had agreed to receive payment once the net profit can be determined – after all pending payments are received by the Defendant under the said projects;

v. The Plaintiff also agreed for a final and conclusive Statement of Account to be prepared by an independent 3rd party auditor;

vi. Based on such agreement, it is clear that the Plaintiff had no right to receive the agreed percentage of net profit before the Defendant has received full payment of the pending transactions under the Defendant's Projects;

vii. The Plaintiff has no right to have the Defendant's financial account audited when his only interest is in respect of Defendant's Projects; and

viii. The Plaintiff had failed to particularize his alternative claim of RM3,511,000.00 against the Defendant for agreed percentage of net profit.

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26. These facts clearly show that the Plaintiff very well knows that at the time this suit was filed, he was not entitled yet to the agreed percentage of net profit. The Plaintiff very well knows that to date, the Defendant has yet to receive the full payments for these projects.

27. The Plaintiff also very well knows that he is not privy to the Defendant's private financial information. This claim for a full audit of the Defendant's Statement of Account is a backdoor attempt by the Plaintiff to gain information in which he is not entitled to.

28. His failure to particularize the sum of RM3,511,000.00 also shows that even the Plaintiff cannot be sure of the net profit claimed, since the actual net profit cannot be determined at this point of time. This is because the Defendant has yet to receive the full payment for the said projects.

29. We referred to the case of ***HARAPAN PERMAI*** above, where the Court of Appeal also stated:

> "*[17] In the context of O. 18 r. 19(1)(b), the word "scandalous" means wholly unnecessary and irrelevant, and not just unpleasant allegations:* ***Boey Oi Leng v. Trans Resources Corporation Sdn Bhd [2002] 1 CLJ 405 HC****. A pleading is "frivolous or vexatious" when it is obviously unsustainable."*

30. In ***LIM KIT SIANG*** *supra.* it was held that since the Plaintiff's case did not pose any cause of action the Plaintiffs suit against UEM is therefore "*unmaintainable as it is also vexatious, frivolous and constitutes an abuse of the judicial process*".

31. Looking at the facts of the case, as well as the authorities, it can clearly be seen that since there is no cause of action in the

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Statement of Claim, this action becomes unmaintainable and unsustainable – hence frivolous and vexatious.

32. It is also clear that since this action is unmaintainable, it becomes irrelevant and unnecessary against the Defendant, in which the Plaintiff's singular reason in maintaining this action would be to embarrass and harm the Defendant.

Abuse of Court Process

33. In the case of **HODAN-R SDN BHD v. DATO' MOHD HISHAMUDIN HJ MOHD YUNUS [2007] 2 CLJ 701**, YA Ramly Ali J (as he was then), had this to say:

> "*In the instant case, what is the plaintiff's cause of action as disclosed from the plaintiff's statement of claim:-*
>
> *The court finds that there is none at all, whether on the facts or in law. The statement of claim is clearly flawed as it lacks the fundamentals of a cause of action, let alone a reasonable cause of action. It so lacks for the simple reason that the plaintiff knows that there is in law and definitely on the facts, no cause of action that they can possibly plead or raise against the defendant. Any reference, especially to the defendant, is obviously based on mere conjecture and bare or fanciful allegations. No court should ever be abused or allow its machinery and system to be the stage of an obviously doomed case."*

34. Based on ***HODAN-R*** above, the Plaintiff's Statement of Claim is clearly flawed for not posing a fundamental cause of action – the right to the net profit entitlement has not arisen. The Plaintiff fully knows that it does not have any cause of action against the Defendant at this point of time, and has brought in this suit against the Defendant as a frivolous and vexatious attempt to cause trouble

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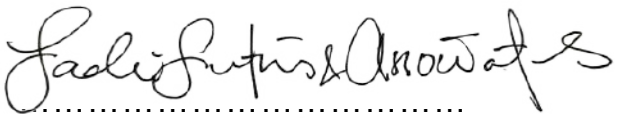
to the Defendant. This is an abuse of court process. The Plaintiff's Statement of Claim should therefore be struck off, as no Court should need to deal with an obviously doomed case.

35. On the basis of the facts we have at hand, as well as the authorities cited, we humbly submit that the Plaintiff's Statement of Claim must be struck out by virtue of limb (a) of Order 18 Rule 19 Rules of High Court – for lacking a cause of action; or in the alternative, under Order 18 Rule 19 (b) and (d), for being utterly scandalous, vexatious and frivolous and an abuse of court process. We also pray for cost to be awarded to the Defendant.

Dated this 8th of December 2021



Solicitors for the Defendant

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This **DEFENDANT'S SUBMISSION** was filed on behalf of the Defendant by Messrs Fadhli Sutris & Associates, solicitors for the Defendant having an address for service at No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03.4131.1557 Fax : 03.4141.8824
Email : law@fadhlisutris.com
[Our Ref : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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DALAM MAHKAMAH TINGGI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
(BAHAGIAN DAGANG)
GUAMAN SIVIL NO.:WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) …PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) …DEFENDAN

JAWAPAN DAN PEMBELAAN KEPADA TUNTUTAN BALAS

1. Terlebih dahulu, Plaintif memplidkan bahawa Plaintif akan menggunapakai kata-kata singkatan yang digunakan di dalam Pernyataan Tuntutan Plaintif untuk rujukan mudah.

2. Plaintif menafikan secara kategori perenggan-perenggan 2 sehingga 6 Pembelaan bertarikh 16.8.2021 ("**Pembelaan tersebut**") dan Plaintif memplidkan bahawa Defendan telah memutarbelitkan fakta-fakta dan Plaintif menjawab seperti berikut:

   i) Walaupun syarikat Defendan dan Ene Tech adalah dua entiti berbeza, pada setiap masa Hafiz mempunyai kawalan terhadap kedua-dua syarikat tersebut

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dimana 50% pegangan saham Ene Tech adalah dimiliki oleh syarikat Defendan yang mana Hafiz merupakan pemegang saham terbesar di syarikat Defendan.

ii) Sepertimana yang telah diplidkan, Ene Tech adalah sebuah syarikat yang dipertubuhkan semata-matanya untuk usahasama antara Plaintif dan Hafiz dan/atau syarikat Defendan dan segala hasil usahasama tersebut dibahagikan sama rata antara mereka dan ini dicerminkan di dalam pegangan saham Ene Tech iaitu, 50% : 50% dipegang antara Plaintif dan syarikat Defendan.

iii) Plaintif berjaya mendapatkan pelanggan pertama iaitu, Farris Regional Asia Pacific ("**Farris**") untuk Ene Tech tetapi pelanggan tersebut tidak dapat melantik Ene Tech kerana ia adalah syarikat baru tanpa akaun yang diaudit.

iv) Bagi mengatasi halangan ini, Hafiz telah mencadangkan untuk menggunakan syarikat Defendan dan Farris juga berjaya melantik syarikat Defendan sebagai wakil produk-produk Farris di negara Malaysia.

v) Susunan ini berterusan bagi segala urusan masa depan yang diperolehi oleh Plaintif dan Ene Tech sudah tidak lagi berguna.

vi) Oleh itu, pada setiap masa Plaintif adalah rakan niaga syarikat Defendan dan bukan sekadar kakitangan syarikat Defendan yang mana syarikat Defendan berniat untuk menggambarkannya.

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vii) Tawaran jawatan sebagai Pengurus Pembangunan Perniagaan hanya sekadar nama sahaja dan apa-apa terma pekerja dan/atau *Employee Handbook* adalah tidak terpakai.

3. Plaintif merujuk kepada perenggan-perenggan 7 dan 8 Pembelaan tersebut dan memplidkan bahawa surat syarikat Defendan bertarikh 26.10.2020 ("**Surat Penyelesaian tersebut**") telah menjadi sebuah kontrak sebaik Plaintif setuju menerima terma-terma dan syarat-syarat surat tersebut dan oleh itu, segala terma dan syarat mengikat syarikat Defendan. Plaintif juga menafikan telah gagal, enggan dan/atau abai mematuhi terma-terma Surat Penyelesaian tersebut.

4. Perenggan-perenggan 9 sehingga 11 Pembelaan tersebut adalah tegas dinafikan dan Plaintif memplidkan bahawa Defendan sekali lagi memutarbelitkan fakta-fakta bagi mengelirukan Mahkamah Yang Mulia ini dan Plaintif memjawab seperti berikut:

i) Pada setiap masa, Plaintif tidak pernah membuat apa-apa yang memprejudiskan dan/atau menganiayai nama baik syarikat Defendan. Segala tindakan Plaintif sebelum dan selepas perletakan jawatan adalah demi kebaikan syarikat Defendan.

ii) Ekstrak-ekstrak mesej teks yang konon diplidkan di perenggan 10 Pembelaan tersebut adalah tegas dinafikan dan Defendan adalah diletakkan beban untuk membuktikan kesahihan mesej-mesej teks tersebut.

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iii) Walaubagaimanapun, ekstrak-ekstrak mesej teks tersebut nampaknya hanya menunjukkan sebahagian kecil daripada keseluruhan perbualan *Whatsapp* dan Defendan tidak menunjukkan keseluruhan perbualan.

iv) Ektrak-ekstrak mesej teks tersebut juga tidak menunjukkan yang Plaintif membuat pernyataan yang konon tersebut dan juga tidak menunjukkan pernyataan yang konon tersebut dirujukan kepada Defendan. Tambahan lagi, Defendan sendiri yang mengakui pernyataan-pernyataan adalah dirujukan kepada Hafiz.

v) Apabila meneliti mesej teks tersebut (dan jikalau mesej teks tersebut adalah benar), adalah juga didapati Plaintif sebenarnya membantu syarikat Defendan dalam mengendalikan pelanggan-pelanggan Defendan. Bagaimanapun, pelanggan-pelanggan tersebut adalah diperolehi oleh Plaintif dan Plaintif berasa bertanggungjawab untuk memastikan urusan-urusan mereka diuruskan dengan baik.

vi) Pernyataan-pernyataan yang konon dikatakan melalui ekstrak mesej teks tersebut oleh Plaintif bahawa dia masih belum dibayar adalah wajar dan tidak ada memburukkan syarikat Defendan kerana sehingga hari ini, Defendan sememangnya masih belum melaksanakan tanggungjawabnya di dalam Surat Penyelesaian untuk membayar Jumlah Penyelesaian tersebut kepada Plaintif.

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vii) Plaintif memplidkan bahawa Encik Syawal Ghazali merupakan pekerja sepenuh masa syarikat Defendan dan sebelum itu,merupakan pekerja sambilan syarikat Defendan.

viii) Plaintif juga memplidkan bahawa Encik Mohd Khairul Amini Ramli merupakan setiausaha syarikat dan juruaudit syarikat Defendan.

5. Perenggan 11 Pembelaan tersebut adalah tegas dinafikan dan apa yang perlu dilaksanakan oleh Plaintif telah dipenuhi melainkan yang mana Defendan masih belum dilaksanakan.

6. Perenggan 13 Pembelaan tersebut adalah tegas dinafikan dan Plaintif memplidkan bahawa ia merupakan suatu pemikiran kemudian untuk menafikan Plaintif daripada menerima Jumlah Penyelesaian.

7. Perenggan-perenggan 14 sehingga 35 Pembelaan tersebut adalah tegas dinafikan dan adalah mengelirukan. Plaintif memjawab seperti berikut:

i) Defendan tidak memberikan kepada Plaintif pendedahan penuh dan terus terang ("*full and frank disclosure*") mengenai akaun berkenaan pelanggan-pelanggan yang diperolehi oleh Plaintif.

ii) Encik Mohd Khairul Amini Ramli adalah setiausaha syarikat dan juruaudit syarikat Defendan dan oleh itu, bukan seorang juruaudit pihak ketiga / bebas ("*third party / independent auditor*"). Pihak-pihak telah bersetuju bahawa

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penyata akaun akan disediakan oleh juruaudit pihak ketiga yang dipersetujui bersama.

iii) Walau bagaimanapun, tiada persetujuan bersama untuk melantik Encik Mohd Khairul Amini Ramli dan adalah kerana atas alasan yang jelas untuk tidak melantiknya.

iv) Pembayaran RM100,000.00 kepada Plaintif merupakan terma mandiri ("*standalone*") dan tidak terikat kepada mana-mana terma melainkan bahawa ia akan dianggap sebagai sebahagian pembayaran Jumlah Penyelesaian. Plaintif juga tidak ada membuat apa-apa persetujuan mengenai pembayaran RM100,000.00 melainkan apa yang dinyatakan di dalam Surat Penyelesaian tersebut. Oleh itu, dakwaan-dakwaan Defendan berkenaan dengan pembayaran RM100,000.00 adalah liar dan tidak berasas.

v) Plaintif telah beberapa kali meminta Defendan untuk mendapatkan juruaudit pihak ketiga / bebas tetapi Defendan enggan berbuat demikian.

vi) Plaintif juga telah beberapa kali meminta Defendan menyediakan Perjanjian Memorandum tetapi Defendan juga enggan berbuat demikian.

vii) Tanpa penyata akaun disediakan oleh juruaudit pihak ketiga dan tanpa kemasukan Perjanjian Memorandum, maka Defendan boleh mengelak daripada membayar Jumlah Penyelesaian kepada Plaintif dan pada masa yang sama, mengelak tanggungjawabnya untuk memenuhi terma-terma Surat

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Penyelesaian tersebut dan ini merupakan perbuatan *mala fide* untuk menafikan hak Plaintif.

viii) Plaintif memplidkan bahawa segala jumlah yang dituntut olehnya adalah untuk kerja-kerja yang sudah siap dilaksanakan oleh Plaintif dan pelanggan-pelanggan juga telah membayar kepada Defendan dan akan membayar kepada Defendan. Oleh itu, adalah wajar Plaintif dibayar untuk kerja-kerja yang sudah dilaksanakan dan disiapkan oleh Plaintif tetapi Defendan kini memungkiri janji / kontrak untuk mempampas Plaintif.

ix) Pihak-pihak juga telah melantik peguamcara masing-masing dan peguamcara Plaintif juga telah mencadangkan pelantikan juruaudit pihak ketiga dan meminta Defendan menyediakan Perjanjian Memorandum tetapi Defendan enggan membuat perkara-perkara itu.

x) Pada setiap masa, Plaintif tidak ada melanggari mana-mana terma Surat Penyelesaian tersebut dan oleh itu, segala terma-terma dan syarat-syarat yang terkandung di dalamnya masih mengikat Defendan dan Defendan sepatutnya membayar Jumlah Penyelesaian kepada Plaintif.

xi) Memandangkan Defendan enggan melantik juruaudit pihak ketiga maka Plaintif terpaksa memohon daripada Mahkamah Yang Mulia ini untuk melantik seorang juruaudit pihak ketiga demi keadilan bagi kedua-dua pihak.

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xii) Jikalau masih enggan melantik juruaudit pihak ketiga maka, Defendan membayar jumlah RM3,511,000.00 (kurang RM100,000.00) mengikut kiraan Plaintif.

8. Oleh demikian, Plaintif memplidkan bahawa pembelaan Defendan adalah liar dan tidak berasas dan memohon agar Mahkamah Yang Mulia ini membenarkan tuntutan Plaintif terhadap Defendan dengan kos.

PEMBELAAN KEPADA TUNTUTAN BALAS

9. Plaintif akan menggunapakai Pernyataan Tuntutan Plaintif serta Jawapan di atas sebagai pembelaan Plaintif terhadap tuntutan balas Defendan dan selanjutnya akan memplid seperti di bawah.

10. Apa-apa rujukan kepada perenggan-perenggan di pliding Pembelaan dan Tuntutan Balas Defendan kini akan dirujuk sebagai "**Tuntutan Balas**".

11. Perenggan 37 Tuntutan Balas adalah dinafikan dan Plaintif memplidkan bahawa dia tidak ada melanggari mana-mana terma Surat Penyelesaian tersebut.

12. Perenggan 38 Tuntutan Balas adalah tegas dinafikan dan walaubagaimanapun, klausa "*restraint of trade*" adalah tidak terpakai di sisi undang-undang Malaysia.

13. Perenggan 39 Tuntutan Balas dinafikan dan Plaintif menggunapakai dan mengulangi Jawapan di atas sebagai jawapan kepadanya.

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14. Perenggan 40 Tuntutan Balas adalah dinafikan dan Plaintif menggunapakai dan mengulangi Jawapan di atas sebagai jawapan kepadanya.

15. Perenggan-perenggan 41, 42 dan 43 Tuntutan Balas adalah tegas dinafikan dan Plaintif memplidkan bahawa Defendan gagal memenuhi peruntukan undang-undang asas untuk membuat tuntutan fitnah terhadap Plaintif dan oleh itu, tuntutan fitnah Defendan patut dibatalkan secara *in limine*. Plaintif seterusnya memplidkan bahawa:

i) Terlebih dahulu, Plaintif memplidkan bahawa tiada pernyataan yang dibuat oleh Plaintif bersifat fitnah kerana apa yang dikatakan oleh Plaintif adalah benar dan tambahan lagi, tiada apa-apa yang dikatakan merujuk kepada Defendan.

ii) Dalam apa jua keadaan, Defendan gagal membuktikan bahawa pernyataan-pernyataan yang konon dikatakan fitnah secara *libel* adalah dibuat oleh Plaintif dan juga gagal menunjukkan bahawa ia adalah dirujukan kepada Defendan dan disampaikan kepada pihak ketiga.

iii) Defendan juga gagal mengemukakan butir-butir terperinci yang menunjukkan maksud-maksud pernyataan-pernyataan tersebut yang didakwa adalah berbentuk fitnah.

iv) Jikalau Defendan berjaya menunjukkan pernyataan-pernyataan yang konon berbentuk fitnah dibuat oleh Plaintif dan merujuk terhadap Defendan dan

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kemudian disampaikan kepada pihak ketiga, Plaintif memplidkan bahawa dia mempunyai justifikasi kerana ia adalah benar Defendan masih belum membuat apa-apa bayaran kepada Plaintif. Sebenarnya, apa-apa pernyataan yang dibangkitkan oleh Defendan tidak berpunca daripada inisiatif Plaintif sendiri tetapi untuk menjawab soalan pihak ketiga.

v) Sehingga hari ini, Defendan masih berhutang Jumlah Penyelesaian kepada Plaintif.

vi) Selain daripada itu, walaupun pernyataan-pernyataan tersebut berbentuk fitnah, ia adalah dirujuk kepada Hafiz dan bukan Defendan dan kedua-dua Hafiz dan Defendan adalah entiti berlainan.

16. Perenggan-perenggan 44 sehingga 50 Tuntutan Balas adalah tegas dinafikan dan Plaintif menggunapakai dan mengulangi perenggan 15 di atas sebagai jawapan kepadanya dan Defendan diletakkan beban untuk membuktikannya dengan kukuh dan nyata.

17. Perenggan-perenggan 51 sehingga 54 Tuntutan Balas adalah tegas dinafikan dan Plaintif memplidkan bahawa Defendan tiada asas untuk menuntut gantirugi dan tuntutan gantirugi fitnah sebanyak RM3,000,000.00 adalah liar, tidak masuk akal dan tidak berasas.

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18. Oleh demikian, Plaintif memohon agar Tuntutan Balas Defendan ditolak dengan kos.

Bertarikh 20 haribulan September 2021

Rohamat & Ling
.....
Peguamcara Plaintif

Jawapan dan Pembelaan kepada Tuntutan Balas ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi pihak Plaintif yang mempunyai alamat penyampaian di 1009, Tingkat 10, Menara PJ, Pusat Perdagangan Amcorp, 18 Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor
No. Tel: 03-7932 5115 No. Faks: 03-7932 5151
No. Ruj LIT/2020 1114_ARAR

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR

(BAHAGIAN DAGANG)

DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI

(NO. K/P : 791221-01-6465) …PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.

(NO. SYARIKAT: 1125108-T) …DEFENDAN

BALASAN KEPADA JAWAPAN

1. Defendan menafikan sekeras-kerasnya kenyataan Plaintif di perenggan 2 Jawapan Plaintif secara khusus mengikut aturan sub-sub perenggan seperti di bawah:

   (i) Syarikat Defendan dan Ene Tech Venture Sdn Bhd merupakan syarikat-syarikat yang merupakan entiti yang berbeza di bawah undang-undang.

   (ii) Sekali lagi Defendan dengan tegas menyatakan bahawa ENE Tech Venture Sdn Bhd bukan pihak dalam tindakan yang difailkan Plaintif di sini.

   (iii) Defendan menafikan kenyataan Plaintif berjaya mendapatkan pelanggan pertama iaitu Farris Regional Asia Pacific dan mengulangi

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kenyataan di atas bahawa ENE Tech Ventures bukan pihak dalam tindakan di sini.

(iv) Defendan menafikan kenyataan Plaintif di perenggan 2 (iv) dan meletakkan beban pembuktian yang ketat terhadap Plaintif.

(v) Defendan menafikan sekeras-kerasnya kenyataan Plaintif di perenggan 2 (v) dan meletakkan beban pembuktian yang ketat terhadap Plaintif.

(vi) Defendan menafikan sekeras-kerasnya kenyataan Plaintif bahawa Plaintif adalah rakan niaga syarikat Defendan di perenggan 2 (vi) dan meletakkan beban pembuktian yang ketat terhadap Plaintif.

(vii) Defendan menyatakan dengan tegas Plaintif adalah di estop daripada menafikan atau memilih secara sendiri sebarang aturan mengikut kehendak Plaintif mengikut kesesuaian terhadap dokumen-dokumen yang sedia ada dan termeterai. Plaintif adalah terikat dengan dokumen-dokumen yang sah dan termeterai antara pihak-pihak.

3. Merujuk kepada perenggan 3 Jawapan Plaintif, Defendan menyatakan bahawa Plaintif adalah pihak yang telah melanggar terma-terma dan syarat-syarat dalam surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 (“surat Persetujuan bertarikh 26.10.2020”) dan Defendan mengulangi kenyataan di Pernyataan Pembelaan Defendan.

4. Defendan merujuk perenggan 4 Jawapan Plaintif dan menafikan secara khusus seperti berikut:

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i) Plaintif telah mengeluarkan kenyataan-kenyataan yang memburukkan Defendan seterusnya melanggar terma-terma dalam surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 ("surat Persetujuan bertarikh 26.10.2020").

5. Defendan merujuk kepada keseluruhan perenggan 4 (ii) sehingga (vi) di Jawapan Plaintif dan menyatakan bahawa :

i) Plaintif secara tidak langsung mengakui pada masa-masa yang material ada menghantar ekstrak mesej-mesej teks tersebut sepertimana di perenggan 4 (iv), 4 (v) dan 4 (vi) dan pada awalnya di perenggan 4 (i) tersebut menafikan bahawa Plaintif telah menghantar mesej-mesej tersebut. Defendan akan membuktikan dengan bukti-bukti dan saksi-saksi yang akan dipanggil di bicara kelak.

ii) Hafiz merupakan seorang Pengarah Urusan di syarikat Defendan yang menjalankan urusan berkaitan dan kepentingan Defendan dan segala keputusan dan tindakan Hafiz selaku Pengarah Urusan syarikat Defendan adalah berlandaskan kepentingan pemegang-pemegang saham Defendan dan tadbir urus Defendan dan mencerminkan syarikat Defendan. Plaintif pada masa-masa yang material telah menyatakan bahawa Hafiz berhutang dengan Plaintif dan pada masa-masa yang material juga menyatakan bahawa Defendan berhutang dengan Plaintif. Ini menunjukkan bahawa Plaintif merujuk kepada isu keberhutangan ini pada Hafiz dan Defendan secara bersama.

iii) Isu berkaitan masih belum dibayar atau tidak dengan isu-isu memburukkan Defendan dengan tohmahan-tohmahan yang tidak

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bertanggungjawab dan berat seperti berhutang, melakukan penipuan, melakukan amalan jenayah dan perkataan-perkataan yang menghina adalah dua perkara dan isu yang berbeza dan Plaintif pada setiap masa yang material adalah bertanggungan atas segala kenyataan-kenyataan yang dibuat.

6. Defendan merujuk kepada perenggan 4 (vii) Jawapan Plaintif dan menyatakan bahawa Encik Syawal Ghazali pada masa yang material bukan pekerja di syarikat Defendan.

7. Defendan merujuk kepada perenggan 4 (viii) di Jawapan Plaintif dan mengakui setakat Encik Mohd Khairul Amini merupakan Setiausaha Syarikat dan seterusnya menyatakan bahawa Encik Mohd Khairul Amini merupakan juruaudit pihak ketiga yang dipersetujui oleh pihak-pihak bagi maksud di bawah surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 ("surat Persetujuan bertarikh 26.10.2020"). Defendan dengan tegas menyatakan bahawa Encik Mohd Khairul Amini tidak pernah pada setiap masa-masa yang material seorang juruaudit syarikat.

8. Defendan menafikan dengan tegas perenggan 5 Jawapan Plaintif dan menyatakan dengan tegas bahawa surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 ("surat Persetujuan bertarikh 26.10.2020") telah terbatal dengan tindakan-tindakan Plaintif sendiri yang tidak menghormati intipati terma-terma.

9. Defendan merujuk kepada perenggan 6 Jawapan Plaintif dan menyatakan perkara berkenaan tertera dan terkandung dengan jelas dalam surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020

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("surat Persetujuan bertarikh 26.10.2020") dan sebarang kenyataan Defendan di Pembelaan adalah bukan pemikiran lepas.

10. Defendan merujuk kepada keseluruhan perenggan 7 Jawapan Plaintif dan menyatakan bahawa tiada penjelasan dan/atau pernyataan yang kukuh dan hanyalah pernyataan-pernyataan kosong semata-mata. Di sini juga Defendan mengulangi pernyataan-pernyataan dalam Pembelaan Defendan yang telah memberikan cerminan yang sebenar.

11. Defendan merujuk kepada perenggan 8 Jawapan Plaintif dan sekali lagi menyatakan bahawa Defendan telah melalui Pembelaan Defendan menyatakan secara terperinci dan cerminan sebenar tindakan ini dan memohon agar Mahkamah Yang Mulia ini menolak tuntutan Plaintif di sini dengan kos.

Bertarikh pada 6 haribulan Oktober, 2021

.....

Peguamcara bagi Defendan

Tetuan Fadhli Sutris & Associates

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BALASAN KEPADA JAWAPAN ini difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan dalam Tuntutan Asal dan Tuntutan Balas yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03-4131.1557
Faks : 03-4141.8824
Email : law@fadhlisutris.com

[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR

(BAHAGIAN DAGANG)

DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI

(NO. K/P : 791221-01-6465) …PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.

(NO. SYARIKAT: 1125108-T) …DEFENDAN

JAWAPAN KEPADA PERNYATAAN PEMBELAAN TUNTUTAN BALAS

1. Defendan mengulangi pernyataan-pernyataan dalam Pembelaan, Tuntutan Balas dan Balasan di atas dalam Jawapan kepada Pernyataan Tuntutan Defendan di sini.

2. Defendan merujuk kepada perenggan 11, 12, 13 dan 14, Pembelaan kepada Tuntutan Balas Plaintif dan menyatakan dengan tegas pernyataan-pernyataan tersebut adalah tidak relevan dan sekadar penafian kosong semata-mata.

3. Defendan merujuk perenggan 12 Pembelaan kepada Tuntutan Balas Plaintif dan menyatakan dengan tegas, bahawa Plaintif menjawat jawatan pengarah kepada Prosky Services Sdn Bhd dan pengarah dan pemegang saham kepada Pertama Gemilang Sdn. Bhd. yang merupakan pesaing kepada perniagaan Defendan dan pada masa yang sama menjawat pekerjaan dalam Defendan

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bukanlah tertakluk di bawah isu restraint of trade, tetapi adalah satu obligasi kontraktual dalam satu-satu pekerjaan.

4. Defendan merujuk kepada keseluruhan perenggan 15 Pembelaan kepada Tuntutan Balas Plaintif yang menggunapakai pembelaan justifikasi terhadap Tuntutan Balas atas tindakan kenyataan-kenyataan fitnah Plaintif. Defendan di sini dengan tegas menyatakan sekali lagi dan mengulangi pernyataan-pernyataan terdahulu bahawa :

i) Plaintif di perenggan 15 (i) secara tidak langsung mengakui pada masa-masa yang material telah membuat pernyataan-pernyataan tetapi beranggapan bukan fitnah dan perkara yang diperkatakan adalah benar.

ii) Hafiz merupakan seorang Pengarah Urusan di syarikat Defendan yang menjalankan urusan berkaitan dan kepentingan Defendan dan segala keputusan dan tindakan Hafiz selaku Pengarah Urusan syarikat Defendan adalah berlandaskan kepentingan pemegang-pemegang saham Defendan dan tadbir urus Defendan dan mencerminkan syarikat Defendan. Plaintif pada masa-masa yang material telah menyatakan bahawa Hafiz berhutang dengan Plaintif dan pada masa-masa yang material juga menyatakan bahawa Defendan berhutang dengan Plaintif. Ini menunjukkan bahawa Plaintif merujuk kepada isu keberhutangan ini pada Hafiz dan Defendan secara bersama.

iii) Defendan telah memberikan butir-butir terperinci melalui fitnah-fitnah yang dibuat oleh Plaintif dalam Tuntutan Balas Defendan atas pernyataan-pernyataan yang dibuat.

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iv) Isu berkaitan masih belum dibayar atau tidak dengan isu-isu memburukkan Defendan dengan tohmahan-tohmahan yang tidak bertanggungjawab dan berat seperti berhutang, melakukan penipuan, melakukan amalan jenayah dan perkataan-perkataan yang menghina adalah dua perkara dan isu yang berbeza dan Plaintif pada setiap masa yang material adalah bertanggungan atas segala kenyataan-kenyataan yang dibuat.

5. Defendan merujuk kepada perenggan 16 Pembelaan Kepada Tuntutan Balas Plaintif dan menyatakan bahawa Tuntutan Balas Defendan adalah terperinci dan memberikan segala butiran tindakan dan pelanggaran oleh Plaintif dan akan dikemukakan dengan bukti-bukti dan saksi-saksi di perbicaraan kelak.

6. Oleh yang sedemikian, Defendan memohon kepada Mahkamah Yang Mulia ini membenarkan tuntutan permohonan Defendan dalam Tuntutan Balas terhadap Plaintif.

Bertarikh pada 6 haribulan Oktober, 2021

.....

Peguamcara bagi Defendan
Tetuan Fadhli Sutris & Associates

S/N X1ENHa9/EadMYAmYv7EZA
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JAWAPAN KEPADA PERNYATAAN PEMBELAAN KEPADA TUNTUTAN BALAS ini difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan dalam Tuntutan Asal dan Tuntutan Balas yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03-4131.1557
Faks : 03-4141.8824
Email : law@fadhlisutris.com

[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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Jumlah RM**********40.00

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN DAGANG)
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465) ...PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.
(NO. SYARIKAT: 1125108-T) ...DEFENDAN

NOTIS PERMOHONAN

(Di bawah Aturan 18 Kaedah 19(a) atau (b) dan (d) dan Aturan 92 Kaedah 4 Kaedah-Kaedah Mahkamah 2012)

Benarkan semua pihak yang berkenaan hadir di hadapan Yang Arif Hakim dalam kamar pada hari pada haribulan , 2021 pukul pagi/petang untuk mendengar permohonan ENE PETRO SERVICES SDN BHD, Defendan tersebut di atas, untuk suatu perintah di bawah Aturan 18 kaedah 19(1)(a) atau Aturan 18 kaedah 19(1)(b) dan (d) Kaedah-kaedah Mahkamah 2012 dan/atau di bawah bidangkuasa sedia ada Mahkamah Yang Mulia ini bahawa:

Pengurusan Kes @ Timbalan Pendaftar (Secara e-Review) 28-OCT-2021 9:00 AM

1. Tuntutan Plaintif terhadap Defendan di dalam Writ dan Pernyataan Tuntutan bertarikh 18.6.2021 sebagaimana terkandung di dalam Pernyataan Tuntutan dibatalkan atas alasan bahawa:

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a. ianya tidak mendedahkan apa-apa kausa tindakan yang munasabah; atau

b. ianya mengaibkan, remeh atau menyusahkan; dan

c. ianya menyalahgunakan kuasa Mahkamah yang Mulia ini

2. Kos bagi dan bersampingan dengan permohonan ini hendaklah dibayar oleh Plaintif kepada Defendan.

3. Relif tambahan dan/atau lain-lain relif yang Mahkamah Yang Mulia ini anggap adil dan wajar.

Alasan-alasan ringkas permohonan ini adalah seperti berikut:

i. Tuntutan Plaintif di sini tidak mempunyai kausa tindakan yang munasabah terhadap Defendan, memandangkan tuntutan Plaintif adalah pra-matang. Plaintif gagal membutirkan bagaimana Plaintif berhak ke atas jumlah yang dituntut, dan gagal menunjukkan bagaimana Plaintif berhak untuk memeriksa akaun Plaintif; dan

ii. Tuntutan Plaintif ini mengaibkan, remeh dan menyusahkan kerana berniat memaksa Defendan untuk menunjukkan akaun syarikat Defendan yang sulit dan memaksa Defendan membuat membayaran yang tidak munasabah kepada Plaintif dan dengan itu menyalahgunakan kuasa Mahkamah.

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Alasan-alasan permohonan yang lain adalah dikemukakan di dalam Afidavit Sokongan MUHAMMAD HAFIZ BIN AHMAD yang telah diikarkan dan difailkan di sini.

Bertarikh 15 haribulan October, 2021

MOHD SYAFIQ BIN MUSTAZA
Timbalan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

Penolong Kanan Pendaftar
Mahkamah Tinggi
Kuala Lumpur

NOTIS PERMOHONAN ini difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.
Tel : 03.4131.1557 Faks : 03.4141.8824
Email: law@fadhlisutris.com
[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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Jumlah RM**********416.00

DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR

(BAHAGIAN DAGANG)

DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR

GUAMAN NO: WA-22NCC-281-06/2021

Antara

AHMAD RIDZUAN BIN AHMAD RUSLI

(NO. K/P : 791221-01-6465) …PLAINTIF

Dan

ENE PETRO SERVICES SDN. BHD.

(NO. SYARIKAT: 1125108-T) …DEFENDAN

PERNYATAAN PEMBELAAN DAN TUNTUTAN BALAS

PERNYATAAN PEMBELAAN

1. Defendan mengakui perenggan 1 sehingga 3 Pernyataan Tuntutan.

2. Defendan mengakui perenggan 4 Pernyataan Tuntutan setakat Plaintif adalah seorang pengarah dan pemegang saham di sebuah syarikat di ENE TECH VENTURE Sdn. Bhd. (selepas ini dirujuk sebagai “ENE TECH”) dan Muhammad Hafiz Bin Ahmad (selepas ini dirujuk sebagai “MH”) adalah seorang pengarah dan pemegang saham dalam ENE TECH pada masa-masa yang material. Defendan dan ENE TECH adalah dua entiti berbeza, dan pengetahuan Defendan berkenaan ENE TECH terhad setakat ini sahaja.

3. Defendan merujuk kepada perenggan 4 Pernyataan Tuntutan dan menyatakan bahawa melalui satu surat lantikan oleh Defendan bertarikh 10.07.2017 Defendan, jawatan yang ditawarkan kepada Plaintif adalah

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Pengarah Perniagaan ("Sales Director"). Walau bagaimanapun, oleh kerana Plaintif mempunyai komitmen pekerjaan di syarikat lain pada ketika itu, Defendan telah menawarkan jawatan sebagai Pengurus Pembangunan Perniagaan ("Business Development Manager") di syarikat Defendan, di mana Plaintif hanya mula berkerja sebagai jawatan Pengurus Pembangunan Perniagaan pada bulan Februari 2018. Ini adalah seperti yang jelas tertera di dalam Surat Pengesahan oleh Defendan bertarikh 17.07.2017.

4. Defendan merujuk perenggan 5 Pernyataan Tuntutan dan dengan tegas menyatakan bahawa ENE TECH dan MH adalah bukan pihak dalam tindakan ini, dan kausa tindakan sekiranya ada, tidak berhubung dan/atau berkait dengan tindakan di sini.

5. Defendan merujuk kepada perenggan 6 Pernyataan Tuntutan dan menafikan kandungan perenggan tersebut sekeras-kerasnya. Defendan seterusnya menyatakan bahawa tawaran jawatan Pengurus Pembangunan Perniagaan adalah berdasarkan terma-terma dalam Surat Lantikan bertarikh 10.07.2017, Surat Pengesahan bertarikh 17.07.2017 dan *Employee Handbook* syarikat Defendan, dimana jawatan yang ditawarkan kepada Plaintif adalah selaku pekerja syarikat Defendan untuk memenuhi keperluan komersial Defendan pada waktu yang material.

6. Defendan merujuk perenggan 7 dan 8 Pernyataan Tuntutan dengan menjelaskan Plaintif telah meletak jawatan terakhir Plaintif selaku Pengurus Pembangunan Perniagaan Defendan atas rentetan peristiwa material yang menjurus kepada peletakan jawatan Plaintif melalui notis lisan pada 28.09.2020 dan tiada sebarang notis bertulis diserahkan kepada Defendan pada tarikh tersebut. Pihak Defendan telah bersetuju untuk menerima perletakkan jawatan Plaintif berdasarkan terma-terma yang telah

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dipersetujui oleh kedua-dua Plaintif dan Defendan. Terma-terma ini ada di dalam surat Penerimaan Peletakan Jawatan Plaintif oleh Defendan bertarikh 26.10.2020 ("surat Persetujuan bertarikh 26.10.2020"). Defendan tidak mempunyai pengetahuan khusus jika Plantif telah meletakkan jawatan sebagai pengarah di syarikat ENE TECH dan memindahmilik sahamnya kepada MH, memandangkan ia tidak mempunyai kaitan dengan tindakan Plaintif terhadap Defendan di sini. Di sini Defendan menegaskan sekali lagi bahawa ENE TECH dan Defendan adalah dua entiti yang berbeza.

7. Defendan merujuk perenggan 9 Pernyataan Tuntutan, di mana Defendan di sini menyatakan bahawa melalui satu Persetujuan bertarikh 26.10.2020, terma-terma dalam surat tersebut antara lainnya adalah :

i) Defendan telah menerima Notis Lisan Perletakkan Jawatan Plaintif pada 28.09.2020, dimana hari terakhir Plaintif bekerja di syarikat Defendan adalah pada 30.10.2020;

ii) di perenggan 1 dinyatakan bahawa:

as a gesture of appreciate in recognition of your (Plaintif) work, the Company (Defendan) agrees to award 50% of Net Profit based on payment received ("Full Payment") and 40% of Net Profit on payment not received ("pending Payment") generated from Curtiss Wright, Malakoff and GWC Italia Business during your employment the amount of which shall be calculated and stated in an account statement prepared by third party auditor to be agreed by both parties and such statement shall be final and conclusive;

iii) di perenggan 2 dinyatakan bahawa:

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as a token of good faith, the Company will pay an advance payment of RM100,000.00 ("Advance Payment") to you and such payment shall be deducted from the Full Payment and the balance thereof shall be reference to as "Balance Payment")

iv) di perenggan 3 dinyatakan bahawa:

a memorandum of agreement ("Memorandum of Agreement") will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company, which shall be executed by the Company and you in relation to the confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;

v) di perenggan 4 dinyatakan bahawa:

you shall not, at any time disclose to any person any information as to the trade secrets, technical processes and data, practices, business dealing or affairs of the Company or any of its clients or as to any other matter which may come to his or her knowledge by reason of your employment

vi) di perenggan 5 dinyatakan bahawa:

you shall not remove from the Company's premises any paper, notes, letters, telexes, calculations, drawings, and any other data/documents whatsoever belonging to or in the possession of the

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Company and, the date of this writing, you shall return to the Company all such data/documents to the Company

vii) di perenggan 6 dinyatakan bahawa:

you shall not engage in any detrimental conduct that is contrary or harmful to the interest of the Company or any of its subsidiaries, including, but not limited to, (i) its properties, (ii) disclosing or misusing any confidential information or material concerning the Company or any of its subsidiaries, (iii) participating in a hostile takeover attempt of the Company, (iv) any kind of act, directly or indirectly, damaging to the Company's reputation and image; and (v) engaging in an act of fraud or intentional misconduct

viii) di perenggan 7 dinyatakan bahawa

failing to comply with condition as stated in this Letter shall relieve the Company from any obligation to fulfill the payment mention in this Letter and in such event the payment has been made, you shall forthwith refund all the monies received and take any legal issue to protect the Company's interest

ix) *Proviso* dinyatakan bahawa

You are requested to return the access card and laptop before you leave today

8. Defendan menyatakan dengan tegas di sini bahawa segala tawaran dalam surat Persetujuan bertarikh 26.10.2020 tersebut adalah hanya dan berasaskan sebagai *gesture of appreciation*. Walaubagaimanapun, tawaran

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tersebut terbatal dan tidak terpakai jika Plaintif gagal, enggan dan/atau abai mematuhi dan menghormati terma-terma dipersetujui yang termeterai dalam surat Persetujuan bertarikh 26.10.2020 tersebut. Di sini Defendan menegaskan bahawa Plaintif telah gagal, enggan dan/atau abai mematuhi dan menghormati terma-terma tersebut. Plaintif telah melanggar terma-terma yang telahpun dipersetujui oleh kedua-dua belah pihak itu.

A. BUTIR-BUTIR PELANGGARAN

9. Defendan di sini menyatakan dengan tegas bahawa pada masa-masa yang material Defendan telah dimaklumkan dan dibekalkan dengan maklumat serta bukti-bukti yang sahih daripada pihak pelanggan, pekerja-pekerja dan pihak ketiga atas tindakan dan perbuatan Plaintif yang telah secara salah memberitahu pihak luar tentang perihal syarikat Defendan dan secara jelas dan/atau tidak langsung memburukkan perniagaan, reputasi dan nama baik Defendan.

10. Oleh yang demikian, Plaintif telah gagal dalam intipati akujanji-akujanji Plaintif dalam surat Persetujuan bertarikh 26.10.2020 tersebut dan seterusnya menyebabkan ia terbatal. Berikut adalah perkara-perkara berbangkit yang berkenaan pada masa-masa yang material:

    i) Di dalam Aplikasi Whatsapp Group bernama Farris USA, ASIA & ENE yang dianggotai oleh Pelanggan Defendan – Farris USA, ASIA, Defendan dan juga Plaintif, Plaintif telah membuat satu pernyataan pada 02.11.2020 bahawa:

    Plaintif : Ok I check
    Farris Sean : I thought you no longer worked for ENE?

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Plaintif	:	*For Sapura issue client already know that I'm leaving but they need my assistance* *I still in the Whatsapp group* *So I feel their pain and need to assist them* ***I shall surrender company belonging untuk ENE paid my settlement*** *Nur did update relieving temp 45.99*

Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4 dan 6 Surat Persetujuan tersebut.

ii) Perbualan Whatsapp Plaintif dan Syawal Ghazali ("SG") iaitu Business Development Manager di Flowtrim Sdn. Bhd, rakan niaga Defendan, pada 07.11.2021 dengan membuat pernyataan:

SG	:	*Wht happen*
	:	*?*
Plaintif	:	*Epit macam keling*
SG	:	*Psal gaji ke?*
Plaintif	:	*Duit aku Tak dapat lagi*
	:	*Anak haram tu tak bayar lagi profit sharing aku lagi 4 juta*
SG	:	*Fuhhh byk tu*

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	:	😐
	:	*Panigale da amik?*
Plaintif	:	*Johnny berhenti bulan 10 2020 dia dapat tau nama dia dah dikeluarkan dari SSM sejak october 2018*
	:	*Johnny pun Tak dapat duit dia lagi*
	:	*Lepas ni court case bro*
	:	*dan share holder 5 tahun penjara bro tipu sign*
SG	:	*Uh damn it*
	:	*Da confronted ke?*
Plaintif	:	*Dia bukak bubble z beli kedai 4 tingkat 3.35 juta bro*
	:	*Isnin aku Ngan Johnny p jumpa babi tu*
	:	*Syed Afisol pun dah kene game*
SG	:	*Try la settle baik2*
	:	*Knai lama dah*
	:	*Industry kecik*
Plaintif	:	*Safuan Trisystem pun dah kene game*
SG	:	*[Syed Afisol pun dah kene game]* *Ni apa kes plak?*
Plaintif	:	*Tunggu ko je belum kene*
SG	:	*:`D*
Plaintif	:	*Dia janji macam keling ko ingat agency cari dia ke semua aku setup dia cerita buruk aku je kat org*
	:	*Duit ko dah dapat*
	:	*Ramai duit org dia tak bagi”*
SG	:	*Adehhhh*
	:	*Koyak ni*
	:	*Dia ada nk jumpa aku*
	:	*Xdan lg aku nk g*

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Plaintif	:	*Ko dtg lah cerita dia akan tanya ko wan Ngan johnny ade cerita ape2 tak*
SG	:	*Hahah myb*
	:	*:`D*
	:	*Atau nk jual share cmpny*
	:	*Hahaha*

Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memburukkan pengurusan Defendan, malah telah membuat kenyataan tidak benar dan tuduhan-tudahan yang berat terhadap Defendan dan pengurusan Defendan. Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut.

iii) Melalui satu hantaran Whatsapp oleh Plaintif pada 31.10.2020 dengan Mohd Khairul Amini Ramli ("KA"), Plaintif telah menyatakan bahawa:

Plaintif	:	*Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar . Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam ... ni yg lagi Saya nak meletop ni tak guna Partner ngan org Tak jujur ...*

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Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memburukkan Defendan dan pengurusan Defendan, malah telah membuat kenyataan tuduhan-tudahan yang berat yakni Defendan adalah korup, menipu dan tidak jujur terhadap Defendan dan pengurusan Defendan. Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut

vii) Melalui satu hantaran Whatsapp oleh Plaintif pada 12.11.2020 dengan Nurul Hanan, pegawai Petronas Carigali Sdn. Bhd., seorang pegawai kepada pelanggan Defendan, Defendan telah dimaklumkan dan dibekalkan dengan bukti bahawa Plaintif telah menyatakan bahawa:

"*Aku bawak balik PO 28 juta untung 14 juta janji nak split 50:50 cuma bayar aku RM900k Lepas tu bila aku nak berenti dia declare nak bayar aku 1.2 juta*

Memang aku nak fight masuk mahkamah semua untung rugi company aku tau sebab aku buat sale

Kalau ada setting pun kenapa nak selindung kata Partner Aku punya dia sebuk ikut aku

Lepas tu guna duit company beli property

Sorok 2 dari aku

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Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

Johnny p refer lawyer

Amanina berenti sebab semua org gaji dia potong 25% dari bulan 4 sampai 9 selama 6 bulan budak2 buat kerja dia tau untung company besar kenapa nak potong.

Ko hati2 ngan org macam ni dia sembang semua org dia kenal. Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

Dia buat aku susah

Skang dia kaya dia belagak macam tuhan

Wow dia sembang ngan aku dan Johnny Awak rapat ngan dia. Saya Kalau baik ngan org pun Tak mau cerita lah buat ape menunjuk2

Dia baru nak meniaga sembang tinggi sangat"

Di sini, Plaintif telah merujuk kepada Defendan dan juga Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memburukkan pengurusan Defendan, malah telah membuat kenyataan tidak benar dan tuduhan-tudahan salah laku, pecah amanah dan jenayah yang berat terhadap Defendan dan pengurusan Defendan.

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Plaintif di sini telah melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut

Saksi-saksi dan bukti-bukti akan dipanggil dan dikemukakan di perbicaraan kelak.

11. Defendan di sini merujuk kepada surat Persetujuan bertarikh 26.10.2020 di perenggan lima (5) dan *proviso* tersebut di mana Plaintif perlu menyerah kembali harta milikan Defendan iaitu laptop di mana terkandung antara lain fail-fail, maklumat-maklumat rahsia dan data-data Defendan dan akses kad. Sehingga ke tarikh tindakan ini difailkan, Plaintif telah dengan sengaja enggan, gagal dan/atau cuai untuk berbuat demikian dan ini menyebabkan surat Persetujuan bertarikh 26.10.2020 terbatal.

12. Defendan merujuk 10 Pernyataan Tuntutan dan mengulangi pernyataan Defendan di atas.

13. Defendan mengakui perenggan 11 Pernyataan Tuntutan dan menyatakan di sini bahawa Ringgit Malaysia Seratus Ribu (RM100,000.00) tersebut adalah bayaran atas niat baik (*goodwill*) atas termeterai surat Persetujuan bertarikh 26.10.2020. Walau bagaimanapun, di sini Defendan menyatakan bahawa akibat pelanggaran terma-terma dalam surat Persetujuan berkenaan, Plaintif adalah tidak berhak atas wang tersebut dan apa-apa wang yang telah diberikan melalui surat Persetujuan bertarikh 26.10.2020 secara langsung atau tidak mesti dipulangkan kepada Defendan.

14. Defendan di sini menafikan sekeras-kerasnya perenggan 12-13 Pernyataan Tuntutan. Defendan menyatakan bahawa kedua-dua pihak pada asalnya telah bersetuju untuk En. Mohd Khairul Amini Ramli daripada Tetuan

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Amini Ramli & Co sebagai akauntan bebas pihak ketiga ("Akauntan Bebas") yang akan menyediakan Penyata Akaun bagi jumlah peyelesaian, seperti yang tertera di dalam perenggan 3 surat Persetujuan tersebut. Melalui emel bertarikh 11.12.2020 daripada Tetuan Amini Ramli & Co, satu penyata akaun telahpun disediakan, dimana pengiraan dan jumlah penyelesaian dinyatakan, dan dijelaskan dengan terperinci. Namun begitu, Plaintif kemudiannya tidak berpuas hati dan tidak bersetuju untuk mengunapakai pengiraan tersebut. Tindakan Plaintif ini telah membelakangkan persetujuan beliau (went back on his words). Oleh yang demikian, *Memorandum of Agreement*, yang merupakan pra-syarat (*Pre-condition*) seperti yang dinyatakan dalam surat Persetujuan bertarikh 26.10.2020, tidak termeterai.

15. Defendan menyatakan dengan tegas di sini, merujuk kepada surat Persetujuan bertarikh 26.10.2020, pihak-pihak telah bersetuju bahawa sebelum bayaran dilepaskan kepada Plaintif, *Memorandum of Agreement* mesti dimeterai dan penyata akaun daripada akauntan Defendan mesti disediakan terlebih dahulu. Ini sepertimana dinyatakan di bawah perenggan di mukasurat dua:

    For the avoidance of doubt, the Company shall only release the Balance Payment to you once the Memorandum of Agreement has been executed by both parties and the statement of account has been prepared by the accountant of the Company.

16. Plaintif juga telah beberapa kali memohon daripada Akauntan Bebas tersebut untuk memberikan penyata kewangan yang berkenaan.

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I) Melalui satu hantaran Whatsapp oleh Plaintif pada tarikh-tarikh yang dinyatakan dibawah kepada Muhammad Khairul Amini, Plaintif telah menyatakan bahawa:

31 Oktober 2020

"Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar .Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 Juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam … ni yg lagi Saya nak meletop ni tak guna Partner ngan org Tak jujur

Tadi Saya nak tgk document 2017, 2018 & 2019 sebab Epit kata Abg tgh buat 2020

Bagi Saya Semak sebab Saya tau perangai epit Macam mana

Tak pe bang mana org nak buat taksiran Saya recommend dengan Abg Khairul"

9 November 2020

"*Kita tggu Abg punya update baru boleh buat keputusan*"

17. Pada 29 Oktober 2020, Plaintif juga bersetuju dengan Defendan bahawa Plaintif hanya akan menunaikan cek Defendan berjumlah RM100,000.00 hanya dan apabila Plaintif bersetuju dengan jumlah yang telah dikemukakan.

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II) Melalui satu hantaran Whatsapp oleh Plaintif pada 29 Oktober 2020 kepada Whatsapp group bernama ENE Farris Top Management Group yang dianggotai oleh antaranya, Plaintif dan MH, Plaintif telah menyatakan bahawa:

"*Kemudian auditor dan lawyer aku bagi tau jgn Bank in cheque 100k tu sampai all figure agreed. So Esok aku nak masuk office ko try call pulak Abg Khairul*."

Pada sekitar 02.03.2021, cek tersebut telah dimasukkan oleh Plaintif, walaupun Plaintif tidak pernah memberikan persetujuan jumlah penyelesaian.

18. Defendan di sini menyatakan dengan tegas, bahawa melalui surat peguamcara Defendan bertarikh 19.11.2020, Defendan adalah pihak yang dahulu memulakan langkah menghubungi Plaintif untuk membuat penyelesaian atas niat baik, namun telah menemui jalan buntu. Melalui surat peguamcara bertarikh 12.01.2021, 03.02.2021 dan 23.04.2021, Plaintif telah membuat tuntutan atas satu jumlah yang tidak berasas dan tidak munasabah dan melampirkan sesalinan *Memorandum of Agreement* kepada peguamcara Defendan. Plaintif juga telah memberikan jumlah yang berbeza-beza iaitu RM3,500,000.00 melalui surat peguamcara plantif yang bertarikh 23.04.2021 dan RM3,511,000.00 melalui surat peguamcara Plaintif yang bertarikh 03.02.2021. Ini juga menunjukkan sekali lagi bahawa Plaintif telah tidak bersetuju dengan jumlah yang diberikan oleh Tetuan Amini Ramli & Co (Akauntan Bebas) tersebut dan telah melanggar terma dan syarat surat Persetujuan bertarikh 26.10.2020.

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19. Defendan menegaskan sekali lagi di sini bahawa memandangkan Plaintif gagal bersetuju dengan pengiraan Akauntan Bebas Tetuan Amini Ramli & Co, *Memorandum of Agreement* tidak mungkin dapat disediakan. Dengan itu, *Memorandum of Agreement* yang disediakan oleh peguamcara Plaintif adalah tidak dapat dipakai. Tambahan pula, jelas dalam surat Persetujuan bahawa pihak Defendan yang akan menyediakan *Memorandum of Agreement*:

a memorandum of agreement ("Memorandum of Agreement") ***will be prepared or caused to be prepared by the Company, in form and substance acceptable by the Company****, which shall be executed by the Company and you in relation to the confidentiality obligation on the confidential information and agreement that you shall have no rights, interests, benefits and titles whatsoever in the Company save for the Balance Payment and you shall have no right whatsoever to claim against the Company save for the Balance Payment;*

20. Peguamcara Defendan telah melalui surat bertarikh 08.02.2021, 19.05.2021 menolak pengiraan Plaintif yang tidak berasas dan tidak munasabah. Defendan menegaskan pada ketika masa yang material ini, bahawa sebarang tawaran melalui surat Persetujuan bertarikh 26.10.2020 tersebut adalah terbatal dan perkara ini tidak dipertikaikan atau dibangkang oleh Plaintif atau peguamcara Plaintif. Ini menunjukkan Plaintif bersetuju dengan perkara tersebut.

21. Defendan menafikan perenggan 14 Pernyataan Tuntutan dan menyatakan Plaintif melalui surat peguamcara bertarikh 23.04.2021 masih menuntut satu jumlah yang tidak berasas dan tidak munasabah, walhal Plaintif pada setiap masa yang material mempunyai pengetahuan pada setiap masa yang

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material bahawa tuntutan Plaintif adalah tidak berasas dan tidak munasabah. Tuntutan Plaintif adalah satu cubaan untuk memperolehi keuntungan dan pengayaan diri yang salah dan bukanlah satu penyelesaian yang mesra.

22. Defendan seterusnya menyatakan bahawa Plaintif telah gagal dalam membutirkan sejumlah RM3,511,000.00 yang dituntut terhadap Defendan di dalam Pernyataan Tuntutan.

23. Defendan seterusnya menyatakan bahawa, pada masa yang material sebarang tawaran dalam surat Persetujuan bertarikh 26.10.2020 adalah terbatal atas pelanggaran terma oleh Plaintif.

24. Defendan menafikan perenggan 15 Pernyataan Tuntutan dan menyatakan bahawa Defendan tidak lagi terikat atas terma-terma dalam surat Persetujuan bertarikh 26.10.2020 yang telah terbatal akibat pelanggaran terma oleh Plaintif.

25. Defendan menafikan sekeras-kerasnya perenggan 16 Pernyataan Tuntutan dan menyatakan bahawa tuntutan atas jumlah tersebut adalah tidak berasas, tidak munasabah, kabur dan mengelirukan dalam tindakan di sini.

26. Defendan menyatakan di sini, bahawa Plaintif gagal dan/atau enggan secara sengaja memberikan cerminan yang sebenar dan jelas atas fakta-fakta yang berbangkit.

27. Defendan menyatakan bahawa Plaintif telah melepaskan hak ("*waive*") untuk mengemukakan tuntutan terhadap Defendan setelah berlaku

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pelanggaran terma-terma dalam surat Persetujuan bertarikh 26.10.2020 tersebut.

28. Defendan seterusnya menyatakan bahawa Plaintif hanya menerima gaji, elaun dan komisyen daripada Defendan sepanjang memegang jawatan selaku Pengurus Pembangunan Perniagaan dan ini jelas menunjukkan bahawa Defendan hanya merupakan seorang pekerja Defendan. Plaintif tidak berkelayakkan dan/atau berhak atas perkongsian keuntungan perniagaan Defendan. Plaintif juga tidak pernah melaburkan sebarang wang atau aset ke dalam Defendan yang membuatkannya mempunyai hak ke atas keuntungan Defendan.

29. Defendan dengan tegas menyatakan di sini, selain dipersetujui oleh Defendan, akaun Defendan adalah tidak tertakluk kepada mana-mana auditor bebas bagi memenuhi tuntutan tidak berasas Plaintif.

30. Defendan menyatakan di sini bahawa Plaintif diestop daripada apa-apa hak untuk memohon kepada Mahkamah Yang Mulia ini untuk Defendan diperiksa oleh mana-mana auditor selaras dengan surat Persetujuan bertarikh 26.10.2020 setelah Plaintif telah pada awalnya secara bersama bersetuju menggunapakai khidmat Tetuan Amini Ramli & Co (Akauntan Bebas). dan telah melalui tindakan dan perbuatan Plaintif menyebabkan surat Persetujuan bertarikh 26.10.2020 telah terbatal dan tidak terpakai.

31. Defendan selaku syarikat sendirian berhad yang diperbadankan di bawah Akta Syarikat 2016 telah memenuhi dan mematuhi kehendak di bawah undang-undang terpakai pada setiap masa yang material.

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32. Tuntutan Plaintif selaku bekas pekerja untuk satu perkongsian keuntungan adalah tidak berasas, tidak munasabah dan tidak diperuntukkan oleh mana-mana undang-undang terpakai.

33. Defendan adalah pada setiap masa yang material terikat dan mempunyai tanggungjawab paling utama terhadap kepentingan pemegang-pemegang saham Defendan bagi memastikan kelangsungan perniagaan Defendan diurus tadbir dengan baik dan dalam keadaan yang teratur.

34. Tuntutan-tuntutan di luar norma amalan perniagaan oleh Plaintif adalah daripada awal telah ditolak oleh Defendan dan sebarang usaha untuk menyelesaikan perkara ini adalah atas dasar niat baik, tulus dan suci hati oleh Defendan.

35. Defendan merujuk kepada perenggan 17 Pernyataan Tuntutan dan menyangkal setiap tuntutan Plaintif dan selain dinyatakan sebaliknya, Defendan menafikan setiap pernyataan Plaintif di sini secara ad seriatim, dan memohon agar tuntutan Plaintif ini ditolak dengan kos.

TUNTUTAN BALAS

36. Defendan dalam Tuntutan Balas menerima pakai dan mengulangi perenggan 1 sehingga 35 Pernyataan Pembelaan dalam Tindakan Asal.

37. Plaintif telah melanggar terma-terma dalam Surat Persetujuan bertarikh 26.10.2020 yang telah dipersetujui dan termeterai oleh pihak-pihak dan seterusnya memungkiri obligasi-obligasi kontrak yang mengikat.

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38. Plaintif juga telah melanggar perjanjian perlantikan bertarikh 10 Julai 2017 apabila menjadi pengarah kepada Prosky Services Sdn Bhd dan pengarah dan pemegang saham kepada Pertama Gemilang Sdn. Bhd. yang merupakan persaing kepada perniagaan Defendan.

39. Plaintif gagal untuk memulangkan menyerah kembali harta milikan Defendan iaitu laptop di mana terkandung antara lain fail-fail, maklumat-maklumat rahsia dan data-data Defendan dan akses kad yang sehingga ke tarikh tindakan ini difailkan, telah dengan sengaja enggan, gagal dan/atau cuai untuk berbuat demikian. Plaintif juga telah menggunakan data-data dan fail-fail di dalam laptop tersebut selepas tarikh penamatan pekerjaan Plaintif.

I) Melalui satu hantaran Whatsapp oleh Plaintif pada 2 November 2020 kepada Whatsapp group bernama Faris USA, ASIA & ENE yang dianggotai oleh antaranya, Plaintif, MH dan klien Defendan, Plaintif telah menyatakan bahawa:

"*For Sapura issue client already know that I'm, leaving but they need my assistance*

I still in the Whatsapp group

So I feel their pain and need to assist them

I shall surrender company belonging untuk ENE paid my settlement"

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Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4 dan 6 Surat Persetujuan tersebut

40. Plaintif melalui persetujuan dan termeterainya Surat Persetujuan bertarikh 26.10.2020 telah menerima dan menunaikan cek daripada Defendan berjumlah Ringgit Malaysia Seratus Ribu (RM100,000.00) atas bayaran atas niat baik (goodwill), dan di sini Defendan menyatakan bahawa akibat pelanggaran terma-terma dalam surat berkenaan, Plaintif adalah tidak berhak atas wang tersebut dan wang tersebut haruslah dipulangkan kepada Defendan bersama laptop dan apa-apa milikan Defendan yang masih dalam milikan Plaintif.

41. Plaintif dengan sengaja dan dengan niat telah memfitnah Defendan secara *libel* dengan memburukkan perniagaan, nama dan reputasi baik Defendan pada pihak-pihak ketiga.

42. Defendan di sini menyatakan dengan tegas bahawa pada masa-masa yang material, Defendan telah dimaklumkan dan dibekalkan dengan maklumat serta bukti-bukti yang sahih daripada pihak pelanggan, pekerja-pekerja dan pihak ketiga atas tindakan, perbuatan Plaintif yang secara jelas dan/atau tidak langsung memfitnah dan/atau memburukkan perniagaan, reputasi dan nama baik Defendan di samping melanggar akujanji-akujanji kontraktual yang telah dipersetujui. Berikut adalah pernyataan-pernyataan dan/atau

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perkataan-perkataan yang dirujuk sebagai fitnah terhadap Defendan pada masa-masa yang material:

i) Di dalam Aplikasi Whatsapp Group bernama Farris USA, ASIA & ENE yang dianggotai oleh Pelanggan Defendan – Farris USA, ASIA, Defendan dan juga Plaintif, Plaintif telah membuat satu pernyataan pada 02.11.2020 bahawa:

Plaintif : Ok I check
Farris Sean : I thought you no longer worked for ENE?
Plaintif : For Sapura issue client already know that I'm leaving but they need my assistance
I still in the Whatsapp group
So I feel their pain and need to assist them
I shall surrender company belonging untuk ENE paid my settlement
Nur did update relieving temp 45.99

Di bahagian yang digelapkan (bold), jelas bahawa Plaintif mewarwarkan perihal syarikat Defendan kepada Pelanggan Defendan. Di sini juga menunjukkan bahawa Defendan adalah pihak yang terhutang kepada Plaintif dan Plaintif hanya akan memulangkan harta Defendan sekiranya bayaran tersebut dibayar. Ini menunjukkan bahawa Defendan adalah sebuah syarikat yang tidak kompeten dan boleh dirunding tawar bagi memenuhi syarat dikehendaki Plaintif dan ini jelas melanggar perenggan 4, 5 dan 6 Surat Persetujuan tersebut

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ii) Perbualan Whatsapp Plaintif dan Syawal Ghazali iaitu Business Development Manager di Flowtrim Sdn. Bhd, rakan niaga Defendan, pada 07.11.2020 dengan membuat pernyataan :

SG	:	*Wht happen*
		?
Plaintif	:	*Epit macam keeling*
SG	:	*Psal gaji ke?*
Plaintif	:	*Duit aku Tak dapat lagi*
		Anak haram tu tak bayar lagi profit sharing aku lagi 4 juta
SG	:	*Fuhhh byk tu*
	:	😐
	:	*Panigale da amik?*
Plaintif	:	*Johnny berhenti bulan 10 2020 dia dapat tau nama dia dah dikeluarkan dari SSM sejak october 2018*
	:	*Johnny pun Tak dapat duit dia lagi*
	:	*Lepas ni court case bro*
	:	*dan share holder 5 tahun penjara bro tipu sign*
SG	:	*Uh damn it*
	:	*Da confronted ke?*
Plaintif	:	*Dia bukak bubble z beli kedai 4 tingkat 3.35 juta bro*
	:	*Isnin aku Ngan Johnny p jumpa babi tu*
	:	*Syed Afisol pun dah kene game*
SG	:	*Try la settle baik2*
	:	*Knai lama dah*
	:	*Industry kecik*
Plaintif	:	*Safuan Trisystem pun dah kene game*

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SG	:	*[Syed Afisol pun dah kene game]*
		Ni apa kes plak?
Plaintif	:	*Tunggu ko je belum kene*
SG	:	*:`D*
Plaintif	:	*Dia janji macam keling ko ingat agency cari dia*
		ke semua aku setup dia cerita buruk aku je kat org
	:	*Duit ko dah dapat*
	:	*Ramai duit org dia tak bagi"*
SG	:	*Adehhhh*
	:	*Koyak ni*
	:	*Dia ada nk jumpa aku*
	:	*Xdan lg aku nk g*
Plaintif	:	*Ko dtg lah cerita dia akan tanya ko wan Ngan*
		johnny ade cerita ape2 tak
SG	:	*Hahah myb*
	:	*:`D*
	:	*Atau nk jual share cmpny*
	:	*Hahaha*

Di sini, Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan. Bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan, malah membuat kenyataan tidak benar dan tuduhan-tudahan yang berat Defendan terlibat dengan jenayah. Plaintif di sini yang juga melanggar terma perenggan 4 dan 6 Surat Persetujuan tersebut.

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iii) Melalui satu hantaran pada 26.09.2020 di Whatsapp Status di akaun Plaintif dengan gambar Plaintif dengan sebuah kereta merah dengan kapsyen :

"*Kerja macam sakai aku hanya dapat bergambar je… semoga Allah beri kekuatan pada org2 yang teranaya… maka haram lah pada org yg amik hak aku*"

Di sini, Plaintif telah merujuk kepada Defendan yang bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan, malah secara innuendo merujuk kepada Defendan telah menganiaya Plaintif dengan mengambil hak Plaintif secara haram.

iv) Melalui satu hantaran pada 30.09.2020 di Whatsapp status di akaun Plaintif dengan gambar Plaintif bertopeng muka ("face mask") membelakangi dua buah kereta hitam dengan kapsyen :

"*Hari ni Allah hantar org tgk kereta Saya… insyallah kita buat sampai jadi… yg lain sembang kari Tak pe Allah adil*"

Di sini, Plaintif telah merujuk kepada Defendan yang bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan memburukkan pengurusan Defendan, malah secara innuendo merujuk kepada Defendan telah menipu dan tidak menepati janji terhadap Plaintif.

v) Melalui satu hantaran Whatsapp oleh Plaintif pada 17.09.2020 dengan Wan Mohd Khairul Syaman, seorang pegawai Tenaga

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Nasional Berhad (TNB) iaitu pelanggan Defendan. Plaintif telah menyatakan bahawa:

[Dokumen ENE Petro Form 24.pdf]

"*Ni prove Saya bukan Partner Epit … deal dia tarik aku join 50% : 50% profit sharing aku Start bawak Job balik ke ENE sejak 2017 sampai hari ni . Total dalam rm 25 juta untung 50% = 12.5 juta Tapi saya dapat bayaran tak sampai sejuta tak seperti Di janjikan…*

Jadi berbekalkan duit simpanan dan Partner paid up rm 200k Saya nak jalan pakai ProSky"

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah pernyataan tersebut merujuk kepada Defendan telah menipu dan tidak menepati janji terhadap Plaintif.

vi) Melalui hantaran Whatsapp oleh Plaintif pada 30.09.2020 dan 31.10.2020 dengan Mohd Khairul Amini Ramli ("KA"), Plaintif telah menyatakan bahawa:

30.09.2020

Plaintif : As Salam Bang, Epit ni dah jauh menyimpang dari perjanjian asal ngan saya company yg dia Run ENE tu Saya bawak Balik job 25juta untung 12.5

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juta payment yg dah masuk as of today baru 15 juta dulu ajak Saya join kata 50/50 profit sharing… banyak duit dia bawak lari keluar … Saya nak keluar dari ENE meniaga tak gentle … Skang ni dia nak offer saya 20/80 mana boleh Saya tgk dia punya expenses untuk business unit Saya 2018 2.5 juta, 2019= 2.3 juta dan 2020 = 2.3 juta mengarut ni macam expenses satu company dan business lain dia

30.10.2020

Plaintif : Bang Jumaat Hari tu Saya tak jadi jumpa Epit pasal nak discuss document tak ready cuba abg update Saya agak2 by when document ready. Saya punya cuti ada 26 hari lagi dia tak bayar . Duit under table client ada 150k lagi dia tak bayar. Payment dah masuk lagi nak tipu Saya. Client dah update Saya payment masuk 1.2 juta Awak minggu hari Rabu hari tu Saya jumpa dia buat diam … ni yg lagi Saya nak meletop ni tak guna Partner ngan org Tak jujur …

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah pernyataan tersebut merujuk kepada Defendan tidak kompeten, telah menipu, tidak menepati janji terhadap Plaintif dan tuduhan jenayah iaitu dengan banyak membawa lari duit.

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vii) Melalui satu hantaran Whatsapp oleh Plaintif pada 12.11.2020 dengan Nurul Hanan, pegawai Petronas Carigali Sdn. Bhd., seorang pegawai kepada pelanggan Defendan, Plaintif telah dimaklumkan dan dibekalkan dengan bukti bahawa Plaintif telah menyatakan bahawa:

"*Aku bawak balik PO 28 juta untung 14 juta janji nak split 50:50 cuma baya raku RM900k Lepas tu bila aku nak berenti dia declare nak bayar aku 1.2 juta*

Memang aku nak fight masuk mahkamah semua untung rugi company aku tau sebab aku buat sale

Kalau ada setting pun kenapa nak selindung kata Partner Aku punya dia sebuk ikut aku

Lepas tu guna duit company beli property

Sorok 2 dari aku

Yg lagi best Johnny pun dah berenti bulan 10 baru ni tiba2 dia dapat tau Epit dah remove Johnny dari share holder bulan 10 2018. Tiru sign Johnny memang gila babi.

Johnny p refer lawyer

Amanina berenti sebab semua org gaji dia potong 25% dari bulan 4 sampai 9 selama 6 bulan budak2 buat kerja dia tau untung company besar kenapa nak potong.

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Ko hati2 ngan org macam ni dia sembang semua org dia kenal. Tak pe lah Product masuk ENE aku yg setting biar lah Aku dah tau siapa kawan siapa lawan.

Allah maha kaya dan adil

Dia buat aku susah

Skang dia kaya dia belagak macam tuhan

Wow dia sembang ngan aku dan Johnny Awak rapat ngan dia. Saya Kalau baik ngan org pun Tak mau cerita lah buat ape menunjuk2

Dia baru nak meniaga sembang tinggi sangat"

Di sini, Plaintif telah merujuk kepada Plaintif telah merujuk kepada Epit, iaitu individu bernama Muhammad Hafiz yang merupakan pengarah Defendan dan bukan sahaja Plaintif memfitnah dengan memburukkan, menjatuhkan, merosakkan nama dan reputasi Defendan dan pengurusan Defendan malah dengan pernyataan tersebut merujuk kepada Defendan telah menipu, tidak menepati janji terhadap Plaintif dan pengurusan Defendan adalah berlagak, dan juga dengan tuduhan jenayah iaitu dengan menipu dengan meniru tandatangan individu lain dan menyalahgunakan wang syarikat.

Saksi-saksi dan bukti-bukti akan dipanggil dan dikemukakan di perbicaraan kelak.

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43. Hantaran-hantaran perbualan dan kapsyen-kapsyen whatsapp oleh Plaintif telah dihantar, diterbit dan dibaca oleh pihak-pihak yang berkenaan yang merupakan rakan niaga, pelanggan-pelanggan Defendan dan pihak ketiga.

44. Tindakan Plaintif adalah dengan niat mencemar dan merosakkan perniagaan, nama dan reputasi baik Defendan dengan menulis dan menerbitkan pernyataan-pernyataan fitnah tersebut telah menjejaskan hubungan, kedudukan dan kepentingan ekonomi sebagai sebuah syarikat yang menjalankan perniagaan secara professional, berdaya saing, dan maju pada setiap masa yang material.

45. Pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif sepertimana dinyatakan di atas dalam maksud semulajadi, biasa bermakna dan difahami bermakna bahawa Defendan adalah sebuah syarikat yang tidak amanah, tidak jujur, penipu dan diuruskan dengan teruk.

46. Defendan di sini menyatakan bahawa pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif telah dengan sengaja dan dalam pengetahuan Plaintif adalah tuduhan palsu dan telah dibuat dengan mala fide setelah tidak berpuas hati dengan Defendan rentetan peristiwa perletakkan jawatan oleh Plaintif.

47. Selain daripada fakta-fakta dan perkara-perkara yang telah Defendan plidkan di hadapan Mahkamah Yang Mulia ini, Defendan dalam tindakan di sini bergantung kepada perkara-perkara di bawah bagi tuntutan balas Defendan terhadap Plaintif:

    a) Bahawa pernyataan-pernyataan dan/atau perkataan-perkataan Plaintif terhadap Defendan dan pengurusan Defendan adalah fitnah yang

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membawa maksud Defendan dan pengurusan Defendan adalah tidak amanah, tidak jujur, penipu dan diuruskan dengan teruk;

b) Bahawa pengurusan Defendan adalah tidak jujur, penipu dan tidak kompeten menjalankan perniagaan;

c) Bahawa Defendan dan pengurusan Defendan adalah tidak bertanggungjawab, korup, tidak bertanggungjawab secara komersial;

d) Bahawa Defendan cenderung untuk berbohong kepada rakan-rakan niaga, pelanggan-pelanggan Plaintif;

e) Bahawa Defendan adalah melakukan jenayah, penipuan dan menggunakan wang syarikat secara salah;

f) Bahawa pernyataan-pernyataan dan/atau perkataan-perkataan melalui hantaran-hantaran whatsapp yang mengandungi fitnah tersebut telah dihantar dan teredar di kalangan rakan-rakan niaga, pelanggan-pelanggan, pekerja-pekerja dan juga pihak-pihak ketiga, dan pihak-pihak yang dinyatakan di atas hanyalah pihak-pihak yang dalam pengetahuan Defendan yang mana telah menjatuhkan dan mencemar perniagaan, reputasi dan nama baik Defendan;

g) Bahawa Plaintif mempunyai pengetahuan mengenai pembelaan dan tuntutan Defendan di sini adalah cerminan sebenar dan Plaintif telah secara mala fide memfitnah Defendan;

48. Defendan di sini menyatakan dengan tegas bahawa pernyataan-pernyataan dan/atau perkataan-perkataan fitnah Plaintif terhadap Defendan adalah tidak wajar dan menyebabkan perniagaan, nama dan reputasi Defendan

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mengalami kerosakkan dan kerugian. Defendan juga terpaksa mengambil tindakan bagi mengawal kerosakkan ("damage control") dengan mengeluarkan kos dan memperuntukkan masa atas perkara-perkara ini.

49. Defendan di sini juga dengan tegas menyatakan bahawa Plaintif dan/atau secara alternatifnya telah secara sindiran ("innuendo") melalui kapsyen-kapsyen tersebut bermakna dan difahamkan bermakna bahawa Defendan adalah penipu, tidak amanah, tidak bertanggungjawab dan Defendan mengulangi pernyataan-pernyataan di sini.

50. Pada keadaan-keadaan yang material di atas, perniagaan, nama dan reputasi Defendan telah mengalami kerosakkan serius, dimalukan dan terbeban atas fitnah-fitnah tersebut.

BUTIR-BUTIR MENYOKONG GANTIRUGI TERKILAN

51. Plaintif tahu atau sepatunya mengetahui bahawa dakwaan-dakwaan yang terkandung dalam perkataan-perkataan yang diperkatakan dan dinyatakan tersebut adalah palsu dan tidak benar.

52. Plaintif menyatakan dan membuat pernyataan-pernyataan dan mengandungi perkataan-perkataan tersebut yang diketahuinya adalah palsu dan tidak berasas dengan niat jahat untuk mencederakan reputasi Defendan di kalangan pelanggan-pelanggan, rakan-rakan niaga, pekerja-pekerja, dan pihak-pihak ketiga yang berkaitan dengan Defendan.

53. Pernyataan-pernyataan serta perkataan-perkataan yang bersifat fitnah tersebut yang diadukan di dalam tindakan ini, seperti yang dibentangkan di perenggan 43 Tuntutan Balas di atas, telah ditulis, disunting dan disebarkan

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oleh Plaintif dan telah seterusnya disebarkan kepada pelanggan-pelanggan, rakan-rakan niaga, pekerja-pekerja, dan pihak-pihak ketiga.

54. Oleh yang sedemikian, Plaintif memohon kepada Mahkamah Yang Mulia ini bahawa Defendan menuntut balas perintah-perintah seperti berikut terhadap Plaintif:

a) Ringgit Malaysia Satu Ratus Ribu (RM 100,000.00) yang telah diberikan kepada Plaintif di bawah surat Persetujuan bertarikh 26.10.2020 dipulangkan kepada Defendan;

b) Plaintif hendaklah memulangkan kepada Defendan komputer riba bersama-sama maklumat-maklumat dan/atau data milik Defendan yang terkandung kepada Defendan;

c) Satu injunksi untuk melarang dan menghalang Plaintif daripada menerbitkan pernyataan-pernyataan dan/atau perkataan-perkataan yang memburukkan, mencemar dan memfitnah Defendan melalui dirinya dan/atau agennya dan/atau wakilnya;

d) Gantirugi fitnah libel dalam jumlah Ringgit Malaysia Tiga Juta (RM3,000,000.00) atau apa-apa jumlah yang ditaksirkan oleh Mahkamah Yang Mulia ini;

e) Gantirugi Am;

f) Gantirugi Terkilan (Aggravated Damages);

g) Gantirugi Teladan;

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h) Suatu permintaan maaf secara terbuka dan penarikkan balik pernyataan-pernyataan dan/atau perkataan-perkataan yang telah dibuat;

i) Faedah ke atas jumlah penghakiman dari tarikh penerbitan dan pengedaran sehingga tarikh bayaran dan penyelesaian penuh;

j) Kos; dan

k) Lain-lain relif selanjutnya yang difikirkan adil dan sesuai oleh Mahkamah Yang Mulia ini.

Bertarikh pada 16 haribulan Ogos, 2021

.....

Peguamcara bagi Defendan
dalam Pernyataan Tuntutan
dan Tuntutan Balas

PERNYATAAN PEMBELAAN DAN TUNTUTAN BALAS ini difailkan oleh difailkan oleh Tetuan Fadhli Sutris & Associates, peguamcara bagi pihak Defendan dalam Tuntutan Asal dan Tuntutan Balas yang dinamakan di atas yang mempunyai alamat penyampaiannya di, Tetuan Fadhli Sutris & Associates, Advocates & Solicitors, No.8-2, Jalan Wangsa Setia 3, Wangsa Melawati, 53300, Kuala Lumpur.

Tel : 03-4131.1557
Faks : 03-4141.8824
Email : law@fadhlisutris.com
[Ruj Kami : FSA.R.ENEPETRO.0.15.20.NH.MA.ub]

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NOTIS PENGENDORSAN KEPADA TUNTUTAN BALAS

Kepada:

AHMAD RIDZUAN BIN AHMAD RUSLI
(NO. K/P : 791221-01-6465)
No.2, Jalan Panglima Awang 35/126D,
Alam Impian, 40470 Shah Alam Selangor

AMBIL PERHATIAN bahawa sekiranya kamu bercadang untuk membela kepada Tuntutan Balas ini, suatu kehadiran mestilah dimasukkan kepada Tuntutan Balas bagi pihak kamu dalam masa empat belas (14) hari selepas penyampaian Pembelaan dan Tuntutan Balas ini kepada kamu, termasuk hari penyampaian dan ambil perhatian bahawa dalam keingkaran kamu berbuat demikian, penghakiman boleh diberikan kepada kamu tanpa sebarang notis.

Arahan untuk memasukkan kehadiran

Seseorang yang disampaikan dengan Tuntutan Balas ini boleh memasukkan kehadiran secara sendiri atau melalui peguam sama ada (1) dengan menyerahkan boring yang sepatutnya dan dilengkapkan sepenuhnya, kepada Pendaftar Mahkamah Tinggi Malaya di Kuala Lumpur, atau (2) dengan menghantar secara pos kepada Pendaftar Mahkamah Tinggi Malaya di Kuala Lumpur, Kompleks Mahkamah Kuala Lumpur, Jalan Tuanku Abdul Halim, Kompleks Kerajaan, 50480 Kuala Lumpur, Wilayah Persekutuan Kuala Lumpur

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DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN, KUALA LUMPUR
(BAHAGIAN DAGANG)
GUAMAN SIVIL NO.: WA-22NCC-281-06/2021

ANTARA

AHMAD RIDZUAN AHMAD RUSLI
(NO. K/P: 791221-01-6465) ...PLAINTIF

DAN

ENE PETRO SERVICES SDN BHD
(NO. SYARIKAT 201401048919 (1125108-T)) ...DEFENDAN

DI HADAPAN HAKIM ~~MAHKAMAH TINGGI~~
LIZA CHAN SOW KENG
PADA 9 FEBRUARI 2023

DALAM KAMAR
MELALUI PLATFORM SIDANG VIDEO SECARA ZOOM
~~MAHKAMAH TERBUKA~~

PENGHAKIMAN PERSETUJUAN

TINDAKAN INI yang telah dipanggil untuk Pengurusan Kes pada 9 Februari 2023 di hadapan Yang Arif Hakim Liza Chan Sow Keng dalam kehadiran peguamcara Plaintif Lai Jin Shawn dan peguamcara Defendan Muhammad Abbad Abdul Wahid. **MAKA ADALAH DENGAN INI DIPERINTAHKAN SECARA PERSETUJUAN bahawa**:-

1. Defendan akan membayar kepada Plaintiff sebanyak RM850,000.00 sebagai jumlah penyelesaian yang dipersetujui ("**Jumlah Penyelesaian tersebut**") secara bayaran ansuran dan berpenggal dalam masa empat puluh lapan (48) bulan tanpa tunggakan bermula dari tarikh Penghakiman Persetujuan sehingga Jumlah Penyelesaian tersebut diselesaikan secara penuh dimana bayaran ansuran pertama adalah sebanyak RM18,100.00 dan bayaran ansuran seterusnya adalah sebanyak RM17,700.00 sebulan.

2. Defendan bersetuju akan membayar bayaran-bayaran ansuran selewat-lewatnya pada atau sebelum hari ketujuh setiap bulan kepada peguamcara Plaintif untuk manfaat Plaintif.

3. Jikalau Defendan gagal dan/atau lewat membayar mana-mana ansuran, baki Jumlah Penyelesaian tersebut yang belum dibayar akan terus patut dibayar ("*immediately due and payable*") kepada Plaintif dan Defendan akan dikenakan faedah lewat membayar sebanyak 8% setahun yang dikira dari sehari ke sehari sehingga Jumlah Penyelesaian tersebut dibayar penuh.

4. Plaintif akan dalam tempohmasa 14 hari dari tarikh Penghakiman Persetujuan meletakkan jawatan sebagai pengarah di dalam syarikat Ene Tech Venture Sdn Bhd ("**Ene Tech**") dan juga memindahmilik syernya

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dalam Ene Tech kepada Defendan dan kos pindahmilik akan ditanggung oleh Defendan. Plaintif akan memberi bekerjasama kepada Encik Muhammad Hafiz bin Ahmad ("**En Hafiz**") untuk menyempurnakan kesemua suratcara bagi maksud tersebut.

5. Defendan bersetuju akan memberi *indemnity* kepada Plaintif jikalau Ene Tech dikenakan apa-apa penalti, tunggakan, jumlah tertunggak dan/atau jumlah yang perlu dibayar oleh mana-mana pihak berkuasa.

6. Defendan bersetuju menarikbalik tuntutan balas tanpa perintah terhadap kos dan tanpa kebebasan untuk memfailkan semula.

7. Kedua belah pihak atau wakil mereka dilarang daripada menerbitkan pernyataan-pernyataan dan/atau perkataan-perkataan yang memburukkan, mencemarkan dan menfitnahkan antara satu sama lain termasuk wakil-wakil masing-masing.

8. Kedua belah pihak atau wakil mereka bersetuju tidak akan mendedahkan terma-terma penyelesaian Penghakiman Persetujuan ini kepada sesiapa pihak melainkan peguamcara masing-masing, akauntan masing-masing dan Mahkamah Yang Mulia ini.

9. Kedua belah pihak bersetuju bahawa terma-terma Penghakiman ini adalah penyelesaian penuh dan muktamad ("*full and final settlement*") guaman ini melainkan tindakan pelaksanaan terma-terma Penghakiman ini.

Bertarikh pada 9 Februari, 2023

Diluluskan oleh:

Rohamat Ling
Peguamcara Plaintif

Ahmad Ridzuan Ahmad Rusli

Muhammad Hafiz bin Ahmad
bagi Defendan

.....
Penolong Kanan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

.....
Peguamcara Defendan

Draf diluluskan seperti dipinda

NORHAINA BINTI ZULKIFLI
Penolong Kanan Pendaftar
Mahkamah Tinggi Malaya
Kuala Lumpur

Penolong Kanan Pendaftar
~~/ Timbalan Pendaftar~~

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Penghakiman Persetujuan ini difailkan oleh Tetuan Rohamat & Ling, peguamcara bagi Plaintif dan mempunyai alamat di 1009, 10th Floor, Menara Melawangi, Pusat Perdagangan Amcorp, No. 18 Jalan Persiaran Barat, 46050 Petaling Jaya.
Tel No. 03-7932 5115 Faks No. 03-7932 5151
No. Ruj: LIT/2020 1114_ARAR

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